REGD. GOA - 5

Panaji, 27th December, 1980 (Pausa 6, 1902)

SERIES I No. 39

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

GOVERNMENT OF GOA, DAMAN AND DIU

Law Department (Legal Advice)

Notification

7/1/80-LGL

The following Central Act namely: — The Finance (No. 2) Act, 1980 which was recently passed by the Parliament and assented to by the President of India on 21st August, 1980 and published in the Gazette of India, Part II, Section I dated 21st August, 1980 is hereby republished for general information of the public.

R. V. Durbhatker, Under Secretary (Law).

Panaji, 16th September, 1980.

The Finance (No. 2) Act, 1980

ARRANGEMENT OF SECTIONS

CHAPTER IV

Indirect taxes

Sections

CHAPTER V

Miscellaneous

The Finance (No. 2) Act, 1980

AN

ACT

to give effect to the financial proposals of the Central Government for the financial year 1980-81.

BE it enacted by Parliament in the Thirty-first Year of the Republic of India as follows: —

CHAPTER I

Preliminary

1. **Short title and commencement.** — (*1*) This Act may be called the Finance (No. 2) Act, 1980.

(*2*) Save as otherwise provided in this Act, sections 2 to 43 and sections 52 and 53 shall be deemed to have come into force on the 1st day of April, 1980.

CHAPTER II

Rates of income-tax

2. **Income-tax.** — (*1*) Subject to the provisions of sub-sections (*2*) and (*3*), for the assessment year commencing on the 1st day of April, 1980, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased, —

(*a*) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(*b*) in the cases to which Paragraph E of that Part applies, by a surcharge,

calculated in each case in the manner provided therein.

(*2*) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income, in addition to total income, and the total income exceeds ten thousand rupees, then, —

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) (that is to say, as if the net agricultural income were comprised in the total income after the first eight thousand rupees of the total income but without being liable to tax), only for the purpose of charging income-tax in respect of the total income; and

(*b*) the income-tax chargeable shall be calculated as follows: —

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income:

Provided that for the purposes of determining the amount of income-tax in accordance with this sub-clause, the provisions of clause (*ii*) of the proviso below Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said Sub-Paragraphs shall not apply;

(*ii*) the net agricultural income shall be increased by a sum of eight thousand rupees and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Parapragh II of the said Paragraph A, as if the net agricultural income as so increased were the total income:

Provided that for the purposes of determining the amount of income-tax in accordance with this sub-clause, the provisions of clause (*i*) and clause (*ii*) of the proviso below Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said Sub-Paragraphs shall not apply;

(*iii*) the amount of income-tax determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax determined in accordance with sub-clause (*ii*):

Provided that where the sum so arrived at exceeds sixty per cent. of the amount by which the total income exceeds ten thousand rupees, the excess shall be disregarded;

(*iv*) the amount of income-tax determined in accordance with sub-clause (*iii*) shall be increased by a surcharge for purposes of the Union calculated at the rate of twenty per cent. of such income-tax and the sum so arrived at shall be the income-tax in respect of the total income.

(*3*) In cases to which the provisions of Chapter XII or section 164 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub- 43 of 1961.

-section (1) or the rates as specified in that Chapter or section, as the case may be.

(4) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(5) Subject to the provisions of sub-section (6), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule:

Provided that in cases to which the provisions of Chapter XII or section 164 of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be.

(6) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds twelve thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force, —

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) (that is to say, as if the net agricultural income were comprised in the total income after the first eight thousand rupees of the total income but without being liable to tax), only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows: —

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income:

Provided that for the purposes of determining the amount of income-tax or "advance tax" in accordance with this sub-clause, the provisions of clause (ii) of the proviso below Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said Sub-Paragraphs shall not apply;

(ii) the net agricultural income shall be increased by a sum of eight thousand rupees and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income:

Provided that for the purposes of determining the amount of income-tax or "advance tax" in accordance with this sub-clause, the provisions of clause (i) and clause (ii) of the proviso below Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said Sub-Paragraphs shall not apply;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii):

Provided that where the sum so arrived at exceeds sixty per cent. of the amount by which the total income exceeds twelve thousand rupees, the excess shall be disregarded;

(iv) the amount of income-tax or "advance tax" determined in accordance with sub-clause (iii) shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax or, as the case may be, "advance tax" and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income.

(7) For the purposes of this section and the First Schedule, —

(a) "company in which the public are substantially interested" means a company which is such a company as is referred to in section 108 of the Income-tax Act;

(b) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1980, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act;

(c) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in

the manufacture or processing of goods or in mining.

Explanation. — For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VIA of the Income-tax Act) is not less than fifty-one per cent. of such total income;

(*d*) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(*e*) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(*f*) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;

(*g*) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

Direct taxes

Income-tax

3. **Amendment of section 2.** — In section 2 of the Income-tax Act, in clause (*24*), after sub-clause (*iv*), the following sub-clause shall be inserted, namely: —

'(*iva*) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in clause (*iii*) or clause (*iv*) of sub-section (*1*) of section 160 or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being hereafter in this sub-clause referred to as the "beneficiary") and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;'.

4. **Amendment of section 10.** — In section 10 of the Income-tax Act, after clause (*23A*), the following clause shall be inserted and shall be deemed always to have been inserted, namely: —

"(*23AA*) any income received by any person on behalf of any Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants;".

5. **Amendment of section 16.** — In section 16 of the Income-tax Act, with effect from the 1st day of April, 1981, —

(*a*) in clause (*i*), —

(*i*) for the words "in respect of expenditure incidental to the employment of the assessee,", the words "a deduction of" shall be substituted;

(*ii*) in sub-clauses (*a*) and (*b*), the words "derived from such employment" shall be omitted;

(*b*) in clause (*ii*), for the words "in respect of any allowance", the words "a deduction in respect of any allowance" shall be substituted.

6. **Amendment of section 32.** — In section 32 of the Income-tax Act, with effect from the 1st day of April, 1981,—

(*a*) in sub-section (*1*), after clause (*ii*), the following clause shall be inserted, namely: —

'(*iia*) in the case of any new machinery or plant (other than ships and aircraft) which has been installed after the 31st day of March, 1980 but before the 1st day of April, 1985, a further sum equal to one-half of the amount admissible under clause (*ii*) (exclusive of extra allowance for double or multiple shift working of the machinery or plant and the extra allowance in respect of machinery or plant installed in any premises used as a hotel) in respect of the previous year in which such machinery or plant is installed or, if the machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year:

Provided that no deduction shall be allowed under this clause in respect of —

(*a*) any machinery or plant installed in any office premises or any residential accommodation;

(*b*) any office appliances or road transport vehicles; and

(*c*) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year.

Explanation. — For the purposes of this clause, —

(*a*) "new machinery or plant" shall have the meaning assigned to it in clause (*2*) of the *Explanation* below clause (*vi*) of this sub-section;

(*b*) "residential accommodation" includes accommodation in the nature of a guest house but does not include premises used as a hotel;';

(*b*) in sub-section (*2*), after the words, brackets and figures "or clause (*ii*)", the words, brackets, figures and letter "or clause (*iia*)" shall be inserted.

7. **Amendment of section 35.** — In section 35 of the Income-tax Act, —

(*a*) in sub-section (*2*), in clause (*iv*),

(*i*) for the brackets and figures "(*ii*), (*iii*)", the brackets, figures and letter "(*ii*), (*iia*), (*iii*)"

shall be substituted with effect from the 1st day of April, 1981;

(*ii*) for the words "for the same previous year", the words "for the same or any other previous year" shall be substituted and shall be deemed always to have been substituted;

(*b*) in sub-section (*2A*), with effect from the 1st day of September, 1980, —

(*i*) in the opening paragraph, after the words, brackets and figures "clause (*ii*) of sub-section (*1*)", the words "or to a public sector company" shall be inserted;

(*ii*) the following *Explanation* shall be inserted at the end, namely: —

'*Explanation.* — For the purposes of this sub-section, "public sector company" shall have the same meaning as in clause (*b*) of the *Explanation* below sub-section (*2B*) of section 32A.';

(*c*) after sub-section (*2A*), the following sub-section shall be inserted with effect from the 1st day of September, 1980, namely: —

"(*2B*) (*a*) Where an assessee has incurred any expenditure (not being in the nature of capital expenditure incurred on the acquisition of any land or building or construction of any building) on scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, he shall, subject to the provision of this sub-section, be allowed a deduction of a sum equal to one-fourth times the amount of the expenditure certified by the prescribed authority to have been so incurred during the previous year.

(*b*) Where a deduction has been allowed under clause (*a*) for any previous year in respect of any expenditure, no deduction in respect of such expenditure shall be allowed under clause (*i*) of sub-section (*1*) or clause (*ia*) of sub-section (*2*) for the same or any other previous year.

(*c*) Where a deduction is allowed for any previous year under this sub-section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed in respect of that asset under clauses (*i*), (*ii*), (*iia*) and (*iii*) of sub-section (*1*) or under sub-section (*1A*) of section 32 for the same or any subsequent previous year.

(*d*) Any deduction made under this sub-section in respect of any expenditure on scientific research in excess of the expenditure actually incurred shall be deemed to have been wrongly made for the purposes of this Act if the assessee fails to furnish within one year of the period allowed by the prescribed authority for completion of the programme, a certificate of its completion obtained from that authority, and the provisions of sub-section (*5B*) of section 155 shall apply accordingly.".

8. **Amendment of section 35B.** — In section 35B of the Income-tax Act, in sub-section (*1*), with effect from the 1st day of April, 1981, —

(*a*) in clause (*b*), sub-clauses (*ii*), (*iii*), (*v*), (*vi*), and (*viii*) shall be omitted;

(*b*) for *Explanation 2* below clause (*b*), the following *Explanation* shall be substituted, namely:—

"*Explanation 2.* — For the removal of doubts, it is hereby declared that nothing in clause (*b*) shall be construed to include any expenditure which is in the nature of purchasing and manufacturing expenses ordinarily debitable to the trading or manufacturing account and not to the profit and loss account.".

9. **Amendment of section 36.** — In section 36 of the Income-tax Act, in sub-section (*1*), after clause (*ii*), the following clause shall be inserted with effect from the 1st day of April, 1981, namely: —

'(*iia*) a sum equal to one and one-third times the amount of the expenditure incurred on payment of any salary to an employee who, as at the end of the previous year,

(*a*) is totally blind, or

(*b*) is subject to or suffers from a permanent physical disability (other than blindness) which has the effect of reducing substantially his capacity to engage in a gainful employment or occupation:

Provided that the assessee produces before the Income-tax Officer, in respect of the first assessment year for which deduction is claimed in relation to each such employee under this clause, —

(*i*) in a case referred to in sub-clause (*a*), a certificate as to his total blindness from a registered medical practitioner being an oculist; and

(*ii*) in a case referred to in sub-clause (*b*), a certificate as to the permanent physical disability referred to in the said sub-clause from a registered medical practitioner:

Provided further that nothing contained in this clause shall apply in the case of an employee whose income in the previous year chargeable under the head "Salaries" exceeds twenty thousand rupees.

Explanation 1. — In this clause, "salary" includes the pay, allowances, bonus or commission payable monthly or otherwise.

Explanation 2. — For the removal of doubts, it is hereby declared that where a deduction under this clause is allowed for any assessment year in respect of any expenditure, deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year;'.

10. **Amendment of section 37.** — In section 37 of the Income-tax Act, sub-sections (*3A*), (*3B*), (*3C*) and (*3D*) shall be omitted with effect from the 1st day of April, 1981.

11. Amendment of section 41. — In section 41 of the Income-tax Act, with effect from the 1st day of April, 1981, —

(*a*) in sub-section (*2*), after the proviso, the following proviso shall be inserted, namely:

'Provided further that where an asset representing expenditure of a capital nature on scientific research within the meaning of clause (*c*) of sub-section (*2B*) of section 35, read with clause (*4*) of section 43 owned by the assessee which was or has been used for the purposes of business after it ceased to be used for the purpose of scientific research related to the business is sold, discarded, demolished or destroyed, the provisions of this sub-section shall apply as if for the words "actual cost", at the first place where they occur, the words "actual cost as increased by twenty-five per cent. thereof" had been substituted.';

(*b*) in sub-section (*3*), —

(*i*) for the words, brackets and figures "clause (*iv*) of sub-section (*1*) of section 35", the words, brackets, figures and letters "clause (*iv*) of sub-section (*1*), or clause (*c*) of sub-section (*2B*), of section 35" shall be substituted;

(*ii*) for the words, brackets, figures and letter "clause (*ia*) of sub-section (*2*) of section 35", the words, brackets, figures and letters "clause (*ia*) of sub-section (*2*), or clause (*c*) of sub-section (*2B*), of section 35" shall be substituted.

12. Insertion of new sections 80AA and 80AB. — In the Income-tax Act, —

(*a*) after section 80A, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1968, namely: —

"80AA. **Computation of deduction under section 80M.** — Where any deduction is required to be allowed under section 80M in respect of any income by way of dividends from a domestic company which is included in the gross total income of the assessee, then, notwithstanding anything contained in that section, the deduction under that section shall be computed with reference to the income by way of such dividends as computed in accordance with the provisions of this Act (before making any deduction under this Chapter) and not with reference to the gross amount of such dividends.";

(*b*) after section 80AA as so inserted, the following section shall be inserted with effect from the 1st day of April, 1981, namely: —

'80AB. **Deductions to be made with reference to the income included in the gross total income.** — Where any deduction is required to be made or allowed under any section (except section 80M) included in this Chapter under the heading *"C — Deductions in respect of certain incomes"* in respect of any income of the nature specified in that section which is included in the gross total income of the assessee, then, notwithstanding anything contained in that section, for the purpose of computing the deduction under that section, the amount of income of that nature as computed in accordance with the provisions of this Act (before making any deduction under this Chapter) shall alone be deemed to be the amount of income of that nature which is derived or received by the assessee and which is included in his gross total income.'.

13. Amendment of section 80C. — In section 80C of the Income-tax Act, with effect from the 1st day of April, 1981, —

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely: —

"(*1*) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section, an amount calculated, with reference to the aggregate of the sums specified in sub-section (*2*), at the following rates, namely: —

(*a*) where such aggregate does not exceed Rs. 5,000	The whole of such aggregate;
(*b*) where such aggregate exceeds Rs. 5,000 but does not exceed Rs. 10,000	Rs. 5,000 *plus* 50 per cent. of the amount by which such aggregate exceeds Rs. 5,000;
(*c*) where such aggregate exceeds Rs. 10,000	Rs. 7,500 *plus* 40 per cent. of the amount by which such aggregate exceeds Rs. 10,000.";

(*b*) in sub-section (*4*), in clause (*i*), for the words "musician or actor", the words and brackets "musician, actor or sportsman (including an athlete)" shall be substituted.

14. Omission of section 80FF — Section 80FF of the Income-tax Act shall be omitted with effect from the 1st day of April, 1981.

15. Amendment of section 80G. — In section 80G of the Income-tax Act, —

(*a*) for sub-section (*4*), the following sub-section shall be substituted with effect from the 1st day of April, 1981, namely: —

"(*4*) Where the aggregate of the sums referred to in sub-clauses (*iv*), (*v*), (*vi*) and (*vii*) of clause (*a*) and in clause (*b*) of sub-section (*2*) exceeds the smaller of the following amounts, that is to say, —

(*i*) ten per cent. of the gross total income (as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this Chapter), and

(*ii*) five hundred thousand rupees,

then, the amount by which such aggregate exceeds such smaller amount shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (*1*).";

(*b*) after sub-section (*5*) and before *Explanation 1*, the following sub-section shall be inserted and shall be deemed always to have been inserted, namely: —

"(*5A*) Where a deduction under this section is claimed and allowed for any assessment year

in respect of any sum specified in sub-section (2), the sum in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.".

16. Insertion of new section 80-I. — In the Income-tax Act, after section 80HHA, the following section shall be inserted with effect from the 1st day of April, 1981, namely: —

'80-I. **Deduction in respect of profits and gains from industrial undertakings after a certain date, etc.** — (1) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking or a ship or the business of a hotel, to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent. thereof:

Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words "twenty per cent.", the words "twenty-five per cent." had been substituted.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely: —

(*i*) it is not formed by the splitting up, or the reconstruction, of a business already in existence;

(*ii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose;

(*iii*) it manufactures or produces any article or thing, not being any article or thing specified in the list in the Eleventh Schedule, or operates one or more cold storage plant or plants, in any part of India, and begins to manufacture or produce articles or things or to operate such plant or plants, at any time within the period of four years next following the 31st day of March, 1981, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking;

(*iv*) in a case where the industrial undertaking manufactures or produces articles or things, the undertaking employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power:

Provided that the condition in clause (*i*) shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section:

Provided further that the condition in clause (*iii*) shall, in relation to a small-scale industrial undertaking, apply as if the words "not being any article or thing specified in the list in the Eleventh Schedule" had been omitted.

Explanation 1. — For the purposes of clause (*ii*) of this sub-section, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely: —

(*a*) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(*b*) such machinery or plant is imported into India from any country outside India; and

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Explanation 2. — Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of clause (*ii*) of this sub-section, the condition specified therein shall be deemed to have been complied with.

Explanation 3. — For the purposes of this sub-section, "small-scale industrial undertaking" shall have the same meaning as in clause (*b*) of the *Explanation* below sub-section (8) of section 80HHA.

(3) This section applies to any ship, where all the following conditions are fulfilled namely: —

(*i*) it is owned by an Indian company and is wholly used for the purposes of the business carried on by it;

(*ii*) it was not, previous to the date of its acquisition by the Indian company, owned or used in Indian territorial waters by a person resident in India; and

(*iii*) it is brought into use by the Indian company at any time within the period of four years next following the 1st day of April, 1981.

(4) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely: —

(*i*) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose;

(*ii*) the business of the hotel is owned and carried on by a company registered in India with a paid-up capital of not less than five hundred thousand rupees;

(*iii*) the hotel is for the time being approved for the purposes of this sub-section by the Central Government;

(*iv*) the business of the hotel starts functioning after the 31st day of March, 1981 but before the 1st day of April, 1985.

(*5*) The deduction specified in sub-section (*1*) shall be allowed in computing the total income in respect of the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, or to operate its cold storage plant or plants or the ship is first brought into use or the business of the hotel starts functioning (such assessment year being hereafter in this section referred to as the initial assessment year) and each of the seven assessment years immediately succeeding the initial assessment year:

Provided that in the case of an assessee, being a co-operative society, the provisions of this sub-section shall have effect as if for the words "seven assessment years", the words "nine, assessment years", had been substituted.

(*6*) Notwithstanding anything contained in any other provision of this Act, the profits and gains of an industrial undertaking or a ship or the business of a hotel to which the provisions of sub-section (*1*) apply shall, for the purposes of determining the quantum of deduction under sub-section (*1*) for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such industrial undertaking or ship or the business of the hotel were the only source of income of the assessee during the previous years relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.

(*7*) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (*1*) from profits and gains derived from an industrial undertaking shall not be admissible unless the accounts of the industrial undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant, as defined in the *Explanation* below sub-section (*2*) of section 288, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

(*8*) Where any goods held for the purposes of the business of the industrial undertaking or the hotel or the operation of the ship are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel or the operation of the ship and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel or the operation of the ship does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of the industrial undertaking or the business of the hotel or the operation of the ship shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date:

Provided that where, in the opinion of the Income-tax Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel or the operation of the ship in the manner hereinbefore specified presents exceptional difficulties, the Income-tax Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation. — In this sub-section, "market value", in relation to any goods, means the price that such goods would ordinarily fetch on sale in the open market.

(*9*) Where it appears to the Income-tax Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel or the operation of the ship to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel or the operation of the ship, the Income-tax Officer shall, in computing the profits and gains of the industrial undertaking or the hotel or the ship for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(*10*) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertakings with effect from such date as it may specify in the notification.'.

17. **Amendment of section 80J.** — In section 80J of the Income-tax Act, —

(*a*) in sub-section (*1*), for the words "computed in the prescribed manner", the words, brackets, figure and letter "computed in the manner specified in sub-section (*1A*)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1972;

(*b*) after sub-section (*1*), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1972, namely: —

'(*1A*) (*I*) For the purposes of this section, the capital employed in an industrial undertaking or the business of a hotel shall, except as otherwise expressly provided in this section, be computed in accordance with clauses (*II*) to (*IV*) and the capital employed in a ship shall be computed in accordance with clause (*V*).

(*II*) The aggregate of the amounts representing the values of the assets as on the first day of the computation period of the undertaking or of the business of the hotel to which

this section applies shall first be ascertained in the following manner: —

(*i*) in the case of assets entitled to depreciation, their written down value;

(*ii*) in the case of assets acquired by purchase and not entitled to depreciation, their actual cost to the assessee;

(*iii*) in the case of assets acquired otherwise than by purchase and not entitled to depreciation, the value of the assets when they became assets of the business;

(*iv*) in the case of assets, being debts due to the person carrying on the business, the nominal amount of those debts;

(*v*) in the case of assets, being cash in hand or bank, the amount thereof.

Explanation 1. — In this clause, "actual cost" has the same meaning as in clause (*1*) of section 43.

Explanation 2. — In this clause and in clause (*III*), "computation period" means the period for which profits and gains of the industrial undertaking or business of the hotel are computed under sections 28 to 43A.

Explanation 3. — In this clause and in clause (*V*), "written down value" has the same meaning as in clause (*6*) of section 43.

Explanation 4. — Where the cost of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the actual cost of the asset.

(*III*) From the aggregate of the amounts as ascertained under clause (*II*) shall be deducted the aggregate of the amounts, as on the first day of the computation period, of borrowed moneys and debts owed by the assessee (including amounts due towards any liability in respect of tax).

Explanation. — For the purposes of this clause, —

(*i*) "tax" means —

(*a*) income-tax or super-tax (including advance tax) due under any provision of this Act;

(*b*) wealth-tax due under any provision of the Wealth-tax Act, 1957; 27 of 1957.

(*c*) gift-tax due under any provision of the Gift-tax Act, 1958; 18 of 1958.

(*d*) super profits tax due under any provision of the Super Profits Tax Act, 1963; 14 of 1963.

(*e*) surtax due under any provision of the Companies (Profits) Surtax Act, 1964; 7 of 1964.

(*ii*) any liability in respect of tax shall be deemed to have become due —

(*a*) in the case of advance tax due under any provision of this Act, on the date on which such advance tax is payable; and

(*b*) in the case of any other tax, on the first day of the period within which it is required to be paid.

(*IV*) The resultant sum as determined under clause (*III*) shall be diminished by the value, as ascertained under clause (*II*), of any investments the income from which is not taken into account in computing the profits of the business and any moneys not required for the purpose of the business, in so far as the aggregate of such investments or moneys exceed the amount of the borrowed moneys which under clause (*III*) are required to be deducted in computing the capital.

(*V*) The capital employed in a ship shall be taken to be the written down value of the ship as reduced by the aggregate of the amounts owed by the assessee as on the computation date on account of moneys borrowed or debts incurred in acquiring that ship.

Explanation. — In this clause, "computation date" in relation to a ship, means —

(*a*) in respect of the previous year in which the ship is first brought into use, the date on which it is so brought into use;

(*b*) in respect of any subsequent previous year, the first day of such previous year.'.

18. **Amendment of section 80JJ.** — In section 80JJ of the Income-tax Act, with effect from the 1st day of April, 1981, —

(*a*) in clause (*a*), for the words "ten thousand rupees", the words "fifteen thousand rupees" shall be substituted;

(*b*) for clause (*b*), the following clause shall be substituted, namely: —

"(*b*) in any other case, one-fifth of the aggregate amount of such profits and gains or fifteen thousand rupees, whichever is higher:

Provided that in computing the aggregate amount of such profits and gains in a case where the profits and gains derived from a business of poultry farming exceed seventy-five thousand rupees, such excess shall be ignored.".

19. **Amendment of section 80L.** — In section 80L of the Income-tax Act, in sub-section (*1*), for clause (*vii*), the following clause shall be substituted with effect from the 1st day of April, 1981, namely: —

"(*vii*) interest on deposits with a financial corporation which is engaged in providing long-term finance for industrial development in India or with a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes:

Provided that the corporation or, as the case may be, the company is for the time being approved by the Central Government for the purposes of clause (*viii*) of sub-section (*1*) of section 36;".

20. **Amendment of section 80RR.**—In section 80RR of the Income-tax Act, for the words "musician or actor", the words and brackets "musician, actor or sportsman (including an athlete)" shall be substituted.

21. **Amendment of section 80T.** — In section 80T of the Income-tax Act, in clause (*a*), the words "where the gross total income does not exceed ten thousand rupees or" shall be omitted with effect from the 1st day of April, 1981.

22. **Amendment of section 80TT.**— In section 80TT of the Income-tax Act, in clause (*a*), the words "where the gross total income does not exceed ten thousand rupees or" shall be omitted with effect from the 1st day of April, 1981.

23. **Amendment of section 80U.** — In section 80U of the Income-tax Act, for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted with effect from the 1st day of April, 1981.

24. **Amendment of section 139.** — In section 139 of the Income-tax Act, after sub-section (*8*), the following sub-section shall be inserted with effect from the 1st day of September, 1980, namely: —

"(*9*) Where the Income-tax Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Income-tax Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, the return shall be treated as an invalid return and the provisions of this Act shall apply as if the assessee had failed to furnish the return:

Provided that where the assessee rectifies the defect after the expiry of the said period of fifteen days or the further period allowed, but before the assessment is made, the Income-tax Officer may condone the delay and treat the return as a valid return.

Explanation. — For the purposes of this sub-section, a return of income shall be regarded as defective unless all the following conditions are fulfilled, namely: —

(*a*) the annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computation of gross total income and total income have been duly filled in;

(*b*) the return is accompanied by a statement showing the computation of the tax payable on the basis of the return;

(*c*) the return is accompanied by proof of —

(*i*) the tax, if any, claimed to have been deducted at source and the advance tax and tax on self-assessment, if any, claimed to have been paid;

(*ii*) the amount of compulsory deposit, if any, claimed to have been made under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974; 38 of 1974.

(*d*) where regular books of account are maintained by the assessee, the return is accompanied by copies of —

(*i*) manufacturing account, trading account, profit and loss account or, as the case may be, income and expenditure account or any other similar account and balance sheet;

(*ii*) in the case of a proprietary business or profession, the personal account of the proprietor; in the case of a firm, association of persons or body of individuals, personal accounts of the partners or members; and in the case of a partner or member of a firm, association of persons or body of individuals, also his personal account in the firm, association of persons or body of individuals;

(*e*) where the accounts of the assessee have been audited, the return is accompanied by copies of the audited profit and loss account and balance sheet and the auditor's report;

(*f*) where regular books of account are not maintained by the assessee, the return is accompanied by a statement indicating the amounts of turnover or, as the case may be, gross receipts, gross profit, expenses and net profit of the business or profession and the basis on which such amounts have been computed, and also disclosing the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.".

25. **Amendment of section 143.** — In section 143 of the Income-tax Act, in sub-section (*1*), in clause (*b*), sub-clauses (*ii*) and (*iii*) shall be omitted.

26. **Amendment of section 155.** — In section 155 of the Income-tax Act, after sub-section (*5A*), the following sub-section shall be inserted with effect from the 1st day of April, 1981, namely: —

"(*5B*) Where any deduction in respect of any expenditure on scientific research has been made in any assessment year under sub-section (*2B*) of section 35 and the assessee fails to furnish a certificate of completion of the programme obtained from the prescribed authority within one year of the period allowed for its completion by such authority, the deduction originally made in excess of the expenditure actually incurred shall be deemed to have been wrongly made, and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the period allowed for the completion of the programme by the prescribed authority expired.".

27. **Amendment of section 164.** — In section 164 of the Income-tax Act, —

(*a*) in sub-section (*1*), —

(*i*) for the portion beginning with the words "tax shall be charged —" and ending with the words "more beneficial to the revenue:", the following shall be substituted, namely: —

"tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate:";

(*ii*) in the proviso, —

(*1*) for clause (*i*), the following clause shall be substituted, namely: —

"(*i*) none of the beneficiaries has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in the case of an association of persons or is a beneficiary under any other trust; or";

(*2*) in clause (*ii*), for the words "under a trust declared by will", the words "under a trust declared by any person by will and such trust is the only trust so declared by him" shall be substituted;

(*3*) in the concluding portion, for the words "as if the relevant income or part of relevant income", the words "on the relevant income or part of relevant income as if it" shall be substituted;

(*b*) in sub-section (*3*), —

(*i*) for the portion beginning with the words "is not specifically receivable" and ending with the words "whichever course would be more beneficial to the revenue:", the following shall be substituted, namely: —

"is not specifically receivable on behalf or for the benefit of any one person or the individual shares of the beneficiaries in the income so applicable are indeterminate or unknown, the tax chargeable on the relevant income shall be the aggregate of —

(*a*) the tax which would be chargeable on that part of the relevant income which is applicable to charitable or religious purposes (as reduced by the income, if any, which is exempt under section 11) as if such part (or such part as so reduced) were the total income of an association of persons; and

(*b*) the tax on that part of the relevant income which is applicable to purposes other than charitable or religious purposes, and which is either not specifically receivable on behalf or for the benefit of any one person or in respect of which the shares of the beneficiaries are indeterminate or unknown, at the maximum marginal rate:";

(*ii*) in the proviso, —

(*1*) for clause (*i*), the following clause shall be substituted, namely: —

"(*i*) none of the beneficiaries in respect of the part of the relevant income which is not applicable to charitable or religious purposes has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in the case of an association of persons or is a beneficiary under any other trust; or";

(*2*) in clause (*ii*), for the words "under a trust declared by will", the words "under a trust declared by any person by will and such trust is the only trust so declared by him" shall be substituted;

(*3*) in the concluding portion, for the words "as if the relevant income", the words "on the relevant income as if the relevant income" shall be substituted;

(*c*) after sub-section (*3*), the following *Explanations* shall be inserted, namely: —

'*Explanation 1.* — For the purposes of this section, —

(*i*) any income in respect of which the persons mentioned in clause (*iii*) and clause (*iv*) of sub-section (*1*) of section 160 are liable as representative assessee or any part threof shall be deemed as being not specifically receivable on behalf or for the benefit of any one person unless the person on whose behalf or for whose benefit such income or such part thereof is receivable during the previous year is expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and is identifiable as such on the date of such order, instrument or deed;

(*ii*) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is received shall be deemed to be indeterminate or unknown unless the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable, are expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and are ascertainable as such on the date of such order, instrument or deed.

Explanation 2. — In this section, "maximum marginal rate" means the rate of income-tax (including surcharge on income-tax (if any) applicable in relation to the highest slab of income in the case of an association of persons as specified in the Finance Act of the relevant year.'.

28. **Amendment of section 171.** — In section 171 of the Income-tax Act, after sub-section (*8*) and before the *Explanation*, the following sub-section shall be inserted, namely: —

"(*9*) Notwithstanding anything contained in the foregoing provisions of this section, where a partial partition has taken place after the 31st day of December, 1978 among the members of a Hindu undivided family hitherto assessed as undivided, —

(*a*) no claim that such partial partition has taken place shall be inquired into under sub-section (*2*) and no finding shall be recorded under sub-section (*3*) that such partial partition had taken place and any finding recorded

under sub-section (3) to that effect whether before or after the 18th day of June, 1980, being the date of introduction of the Finance (No. 2) Bill, 1980, shall be null and void;

(b) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place;

(c) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition;

(d) the several liability of any member or group of members aforesaid shall be computed according to the portion of the joint family property allotted to him or it at such partial partition,

and the provisions of this Act shall apply accordingly.".

29. **Amendment of section 208.** — In section 208 of the Income-tax Act, in sub-section (2), for clause (c), the following clause shall be substituted with effect from the 1st day of September, 1980, namely: —

"(c) in any other case — Rs. 12,000.".

30. **Amendment of section 209A.** — In section 209A of the Income-tax Act, in sub-section (4), after the proviso, the following proviso shall be inserted with effect from the 1st day of September, 1980, namely: —

'Provided further that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the figures and words "33-1/3 per cent.", the figures and words "20 per cent." had been substituted.'.

31. **Amendment of section 212.** — In section 212 of the Income-tax Act, in sub-section (3A), after the proviso, the following proviso shall be inserted with effect from the 1st day of September, 1980, namely: —

'Provided further that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the figures and words "33-1/3 per cent.", the figures and words "20 per cent." had been substituted.'.

32. **Amendment of section 215.** — In section 215 of the Income-tax Act, in sub-section (1), the following proviso shall be inserted with effect from the 1st day of September, 1980, namely: —

'Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words "seventy-five per cent.", the words "eighty-three and one-third per cent." had been substituted.'.

33. **Amendment of section 273.** — In section 273 of the Income-tax Act, with effect from the 1st day of September, 1980, —

(i) in sub-section (1), the following proviso shall be inserted, namely: —

'Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words "seventy-five per cent.", at both the places where they occur, the words "eighty-three and one-third per cent." had been substituted.';

(ii) in sub-section (2), before the *Explanation*, the following proviso shall be inserted, namely: —

'Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words "seventy-five per cent.", wherever they occur, the words "eighty-three and one-third per cent." had been substituted.'.

34. **Amendment of Fourth Schedule.** — In the Fourth Schedule to the Income-tax Act, in Part A, in clause (b) of rule 6, the words "exceeds one-third of the salary of the employee or" shall be omitted with effect from the 1st day of April, 1981.

35. **Consequential amendments to certain sections.** — The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act with effect from the 1st day of April, 1981, namely: —

(i) in sub-section (2) of section 34, in clause (ii), after the words, brackets and figures "or clause (ii)", the words, brackets, figures and letter "or clause (iia)" shall be inserted;

(ii) in sub-section (2) of section 38, for the brackets, figures and word "(ii) and (iii)", the brackets, figures, letter and word "(ii), (iia) and (iii)" shall be substituted;

(iii) in sub-section (3) of section 80A, after the words, figures and letters "or section 80HHA", the words, figures and letter "or section 80-I" shall be inserted;

(iv) in sub-section (9) of section 80HH, for the words, figures and letter "under section 80J", the words, figures and letters "under section 80-I or section 80J" shall be substituted;

(v) in sub-section (6) of section 80HHA, for the words, figures and letter "under section 80J", the words, figures and letters "under section 80-I or section 80J" shall be substituted;

(vi) in sub-section (3) of section 80P, after the words, figures and letters "or section 80HHA", the words, figures and letter "or section 80-I" shall be inserted.

Wealth-tax

36. **Amendment of section 2.** — In the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), in section 2, in sub-clause (e) of clause (2), for the words "Provided that", the following shall be substituted with effect from the 1st day of April, 1981, namely: — 27 of 1957.

'Provided that in relation to the assessment year commencing on the 1st day of April, 1981, or any subsequent assessment year, this sub-clause shall have effect subject to the modification that for item (i) thereof, the following item shall be substituted, namely: —

"(i) (a) agricultural land other than land comprised in any tea, coffee, rubber or cardamom plantation;

(*b*) any building owned or occupied by a cultivator of, or receiver of rent or revenue out of, agricultural land other than land comprised in any tea, coffee, rubber or cardamom plantation:

Provided that the building is on or in the immediate vicinity of the land and is a building which the cultivator or the receiver of the rent or revenue by reason of his connection with the land requires as a dwelling-house or a store-house or an out-house;

(*c*) animals;":

Provided further that'.

37. **Amendment of section 5.** — In section 5 of the Wealth-tax Act, in sub-section (*1*), with effect from the 1st day of April, 1981, —

(*a*) for clause (*iva*), the following clause shall be substituted, namely: —

"(*iva*) agricultural land comprised in any tea, coffee, rubber or cardamom plantation belonging to the assessee;";

(*b*) in clause (*ivb*), for the words "agricultural land", the words "agricultural land comprised in any tea, coffee, rubber or cardamom plantation" shall be substituted;

(*c*) in clause (*viiib*), for the words "in an orchard or a plantation", the words "in any tea, coffee, rubber or cardamom plantation" shall be substituted;

(*d*) for clause *(xxvii)*, the following clause shall be substituted, namely: —

"(*xxvii*) any deposits with a financial corporation which is engaged in providing long-term finance for industrial development in India or with a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes:

Provided that the corporation or, as the case may be, the company is for the time being approved by the Central Government for the purposes of clause (*viii*) of sub-section (*1*) of section 36 of the Income-tax Act;".

38. **Amendment of section 7.** — In section 7 of the Wealth-tax Act, in sub-section (*1*), the following *Explanation* shall be inserted, namely: —

"*Explanation.* — For the removal of doubts, it is hereby declared that the price or other consideration for which any property may be acquired by or transferred to any person under the terms of a deed of trust or through or under any restrictive covenant in any instrument of transfer shall be ignored for the purpose of determining the price such property would fetch if sold in the open market on the valuation date."

39. **Insertion of new section 20A.** — In the Wealth-tax Act, after section 20, the following section shall be inserted, namely: —

'20A. **Assessment after partial partition of a Hindu undivided family.**—Where a partial partition has taken place after the 31st day of December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided, —

(*a*) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place;

(*b*) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition;

(*c*) the several liability of any member or group of members aforesaid shall be computed according to the portion of the joint family porperty allotted to him or it at such partial partition,

and the provisions of this Act shall apply accordingly.

Explanation. — For the purposes of this section, "partial partition" shall have the meaning assigned to it in clause (*b*) of the *Explanation* to section 171 of the income-tax Act.'.

40. **Amendment of section 21.** — In section 21 of the Wealth-tax Act, —

(*a*) in sub-section (*1*), for the words "in the case of assets chargeable to tax under this Act", the words, brackets, figure and letter "Subject to the provisions of sub-section (*1A*), in the case of assets chargeable to tax under this Act" shall be substituted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely: —

"(*1A*) Where the value or aggregate value of the interest or interests of the person or persons on whose behalf or for whose benefit such assets are held falls short of the value of any such assets, then, in addition to the wealth-tax leviable and recoverable under sub-section (*1*), the wealth-tax shall be levied upon and recovered from the court of wards, administrator-general, official trustee, receiver, manager or other person or trustee aforesaid in respect of the value of such assets, to the extent it exceeds the value or aggregate value of such interest or interests, as if such excess value were the net wealth of an individual who is a citizen of India and resident in India for the purposes of this Act, and —

(*i*) at the rates specified in Part I of Schedule I; or

(*ii*) at the rate of three per cent.,

whichever course would be more beneficial to the revenue.";

(*c*) in sub-section (*4*), —

(*i*) for the portion beginning with the words "as if the persons" and ending with the words "resident in India", the following shall be substituted, namely: —

", as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from an individual who is a citizen of India and resident in India";

(*ii*) in clause (*b*), for the words "one and one-half per cent.", the words "three per cent." shall be substituted;

(*iii*) in the proviso, —

(*1*) in clause (*i*), for the words "under a trust declared by will", the words "under a trust declared by any person by will and such trust is the only trust so declared by him" shall be substituted;

(*2*) after clause (*i*), the following clause shall be inserted, namely: —

"(*ia*) none of the beneficiaries has net wealth exceeding the amount not chargeable to wealth-tax in the case of an individual who is a citizen of India and resident in India for the purposes of this Act or is a beneficiary under any other trust; or";

(*iv*) the *Explanation* shall be numbered as *Explanation 2* and before that *Explanation*, the following *Explanation* shall be inserted, namely: —

"*Explanation 1.* — For the purposes of this sub-section, the shares of the persons on whose behalf or for whose benefit any such assets are held shall be deemed to be indeterminate or unknown unless the shares of the persons on whose behalf or for whose benefit such assets are held on the relevant valuation date are expressly stated in the order of the court or instrument of trust or deed of wakf, as the case may be, and are ascertainable as such on the date of such order, instrument or deed."

41. **Amendment of Schedule I.** — In the Wealth-tax Act, in Part I of Schedule I, —

(*a*) in item (*1*), in the proviso, for the letters and figures "Rs. 1,00,000", at both the places where they occur, the letters and figures "Rs. 1,50,000" shall be substituted;

(*b*) in item (*2*), —

(*i*) in the opening portion, for the words, letters and figures "assessment year exceeds Rs. 1,00,000", the words, letters and figures "assessment year exceeds Rs. 1,50,000" shall be substituted;

(*ii*) in the proviso, for the letters and figures "Rs. 1,00,000", at both the places where they occur, the letters and figures Rs. 1,50,000" shall be substituted.

Gift-tax

42. **Amendment of Act 18 of 1958.** — In the Gift-tax Act, 1958, —

(*a*) in section 2, in sub-clause (*c*) of clause (*xxiv*), after the words "power of appointment", the brackets and words "(whether general, special or subject to any restrictions as to the persons in whose favour the appointment may be made)" shall be inserted;

(*b*) in section 4, in sub-section (*1*), after clause (*d*), the following clause shall be inserted namely: —

"(*e*) where a person who has an interest in property as a tenant for a term or for life or a remainderman surrenders or relinquishes his interest in the property or otherwise allows his interest to be terminated without consideration or for a consideration which is not adequate, the value of the interest so surrendered, relinquished or allowed to be terminated or, as the case may be, the amount by which such value exceeds the consideration received, shall be deemed to be a gift made by such person.".

Interest-tax

43. **Amendment of Act 45 of 1974.** — In the Interest-tax Act, 1974, —

(*1*) in section 2, —

(*a*) in clause (7), —

(*i*) after sub-clause (*i*), the following sub-clause shall be inserted and shall be deemed always to have been inserted, namely: —

"(*ia*) interest referred to in sub-section (*1B*) of section 42 of the Reserve Bank of India Act, 1934;"; 2 of 1934.

(*ii*) for sub-clause (*iii*), the following sub-clause shall be substituted with effect from the 1st day of September, 1980, namely: —

'(*iii*) interest on any term loan sanctioned before the 18th day of June, 1980 where the agreement under which such loan has been sanctioned provides for the repayment thereof during a period of not less than three years.

Explanation. — For the purposes of this sub-clause, "term loan" means a loan which is not repayable on demand;';

(*b*) in clause (9), after the words and figures "the Reserve Bank of India Act, 1934", the following shall be inserted with effect from the 1st day of September, 1980, namely: — 2 of 1934.

", and includes —

(*a*) the Industrial Finance Corporation of India, established under the Industrial Finance Corporation Act, 1948; 15 of 1948.

(*b*) the Industrial Development Bank of India, established under the Industrial Development Bank of India Act, 1964; 18 of 1964.

(*c*) the Industrial Reconstruction Corporation of India Limited;

(*d*) the Industrial Credit and Investment Corporation of India Limited";

(*2*) in section 6, in sub-section (*2*), for the words, figures and letters "after the 28th day of February, 1978", the words, figures and letters "during the period commencing on the 1st day of March, 1978 and ending with the 30th day of June, 1980" shall be substituted with effect from the 1st day of September, 1980.

Miscellaneous

44. **Saving in certain cases.** — Where before the 18th day of June, 1980 [being the date on which the Finance (No. 2) Bill, 1980 was introduced], the Supreme Court has, on an appeal or a reference in respect of the assessment of an assessee for any particular assessment year, held that the deduction under section 80M is to be allowed in a manner different from that provided in section 80AA of the Income-tax Act, as inserted by section 12 of this Act, then, nothing contained in the said section 80AA shall apply to the assessment of such assessee for that particular assessment year.

CHAPTER IV

Indirect taxes

45. **Amendment of Act 51 of 1975.** — The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), shall be amended in the manner specified in Parts I and II of the Second Schedule.

46. **Amendment of Act 1 of 1944.** — In the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act), —

(*a*) in section 2, in clause (*f*), after sub-clause (*vii*), the following sub-clause shall be inserted, namely: —

"(*viii*) in relation to aluminium, includes lacquering or printing or both of plain containers;";

(*b*) the First Schedule shall be amended in the manner specified in Parts I and II of the Third Schedule.

47. **Amendment of Act 13 of 1980.** — In section 5 of the Finance Act, 1980, in sub-section (*1*), for the words "five per cent.", the words "ten per cent." shall be substituted.

48. **Amendment of Act 58 of 1957.**—The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act), shall be amended in the manner specified in the Fourth Schedule.

49. **Amendment of Act 25 of 1978.** — In the Customs, Central Excises and Salt and Central Boards of Revenue (Amendment) Act, 1978, in new section 11B, as directed by section 21 of that Act to be inserted in the Central Excises Act, —

(*a*) in sub-section (*1*), —

(*i*) for the words "from the date of payment of duty" occurring in the opening portion, the words "from the relevant date" shall be substituted;

(*ii*) the *Explanation* shall be omitted;

(*b*) for the *Explanation* at the end, the following *Explanation* shall be substituted, namely: —

'*Explanation.* — For the purposes of this section, —

(*A*) "refund includes rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;

(*B*) "relevant date" means, —

(*a*) in the case of goods exported out of India where a refund of excise duty paid is available in respect of the goods themselves or, as the case may be, the excisable materials used in the manufacture of such goods, —

(*i*) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India, or

(*ii*) if the goods are exported by land, the date on which such goods pass the frontier, or

(*iii*) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;

(*b*) in the case of goods returned for being remade, refined, reconditioned, or subjected to any other similar process, in any factory, the date of entry into the factory for the purposes aforesaid;

(*c*) in the case of goods to which banderols are required to be affixed if removed for home consumption but not so required when exported outside India, if returned to a factory after having been removed from such factory for export out of India, the date of entry into the factory;

(*d*) in a case where a manufacturer is required to pay a sum, for a certain period, on the basis of the rate fixed by the Central Government by notification in the Official Gazette in full discharge of his liability for the duty leviable on his production of certain goods, if after the manufacturer has made the payment on the basis of such rate for any period but before the expiry of that period such rate is reduced, the date of such reduction;

(*e*) in a case where duty of excise is paid provisionally under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof;

(*f*) in any other case, the date of payment of duty.'.

50. **Amendment of Act 52 of 1962 etc. to provide for an Appellate Tribunal.** — (*1*) The amendments directed in the Fifth Schedule, being amendments to provide for an Appellate Tribunal under the Customs Act, 1962, the Central Excises Act and the Gold (Control) Act, 1968 and for matters connected therewith, shall be made in the said Acts. 45 of 1968.

(*2*) The amendments directed to be made by sub-section (*1*) shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for the amendments to different Acts.

(*3*) If any difficulty arises in giving effect to the provisions of any Act referred to in sub-section (*1*),

as amended by the amendments thereto directed in the Fifth Schedule (particularly in relation to the transition to the provisions of that Act as so amended), the Central Government may, by general or special order, to anything not inconsistent with such provisions as so amended which appears to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date on which such amendments came into force.

CHAPTER V

Miscellaneous

51. **Amendment of Act 6 of 1898.** — In the First Schedule to the Indian Post Office Act, 1898, —

(*a*) for the sub-heading "*Letters*" and the entries thereunder, the following shall be substituted, namely: —

"*Letters*

For a weight not exceeding ten grams	35 paise
For every ten grams or fraction thereof, exceeding ten grams	15 paise.";

(*b*) for the sub-heading "*Parcels*" and the entries thereunder, the following shall be substituted, namely: —

"*Parcels*

For a weight not exceeding five hundred grams	Rs. 2.00
For every five hundred grams or fraction thereof, exceeding five hundred grams	Rs. 2.00.".

52. **Amendment of Act 32 of 1971.** — In section 54 of the Finance (No. 2) Act, 1971, for the words "nine previous years", the words "fourteen previous years" shall be substituted.

53. **Amendment of Act 38 of 1974.** — In the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974, —

(*a*) in section 2, after clause (*d*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 10th day of July, 1978, namely: —

'(*dd*) "Income-tax Officer" has the same meaning as in clause (*25*) of section 2 of the Income-tax Act, and includes an Inspecting Assistant Commissioner who exercises or performs the powers or functions conferred on, or assigned to, him under section 125 or section 125A of the said Act;';

(*b*) after section 7, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1975, namely: —

"7A. **Compulsory deposit to be exempt for purposes of wealth-tax.**— For the purposes of exemption under section 5 of the Wealth-tax Act, 1957, the amount of compulsory deposit shall be deemed to be a deposit with a banking company to which the Banking Regulation Act, 1949 applies."; 27 of 1957. 10 of 1949.

(*c*) with effect from the 1st day of April, 1981, section 8 shall be re-numbered as sub-section (*1*) thereof and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely: —

"(*2*) Where any amount has become repayable or payable under sub-section (*1*), the depositor may, at his option, not withdraw such amount after it has become so repayable or payable, and if he does so, such amount shall carry interest for the period it is not withdrawn as if it were a compulsory deposit, and the provisions of this Act shall, so far as may be, apply in relation to such amount or interest thereon as they apply in relation to a compulsory deposit or, as the case may be, interest on such deposit.";

(*d*) in section 10, with effect from the 1st day of April, 1975, —

(*i*) in sub-section (*1*), —

(*1*) in clause (*a*), for the words "has failed to make", the words "has, without reasonable cause, failed to make" shall be substituted;

(*2*) in clause (*b*), for the words "the requisite amount", the words "the requisite amount and there is no reasonable cause for making such short payment" shall be substituted;

(*3*) for the words "the Income-tax Officer shall", the words "the Income-tax Officer may" shall be substituted;

(*ii*) in sub-section (*2*), —

(*1*) in clause (*a*), for the words "has failed to make", the words "has, without reasonable cause, failed to make" shall be substituted;

(*2*) in clause (*b*), —

(*A*) for the words "is less than", the words "falls short of" shall be substituted;

(*B*) for the words "his correct income", the words "his correct income and there is no reasonable cause for making such short payment" shall be substituted;

(*3*) for the words "the Income-tax Officer shall", the words "the Income-tax Officer may" shall be substituted;

(*e*) in section 11, with effect from the 10th day of July, 1978, —

(*i*) in sub-section (*1*), for the words "Additional Commissioner of Income-tax", the words and brackets "Commissioner of Income-tax (Appeals)" shall be substituted;

(*ii*) in sub-section (*2*), in clause (*b*) of the proviso, for the words "Appellate Assistant Commissioner", the words and brackets "Commissioner (Appeals) or the Appellate Assistant Commissioner" shall be substituted;

(*f*) with effect from the 10th day of July, 1978, section 12 shall be re-numbered as sub-section (*1*) thereof, and, —

(*i*) in sub-section (*1*), as so re-numbered, for the words "Any depositor", the words, brackets

and figure "Subject to the provisions of sub-section (2), any depositor" shall be substituted;

(*ii*) after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely: —

'(*2*) Where an order referred to in sub-section (*1*) is made by an Inspecting Assistant Commissioner in exercise of the powers or functions conferred on or assigned to him under section 125 or section 125A of the Income-tax Act, the provisions of that sub-section shall have effect as if for the words "Appellate Assistant Commissioner", the words and brackets "Commissioner (Appeals)" were substituted.';

(*g*) after section 12, the following section shall be inserted with effect from the 1st day of September, 1980, namely: —

'12A. **Special review in certain cases.** — (*1*) Where any order imposing a penalty under section 10 made by the Income-tax Officer before the date on which the Finance (No. 2) Act, 1980 received the assent of the President (such order being hereafter in this section referred to as pre-amendment penalty order) has not been made the subject matter of any subsequent proceeding by way of appeal or revision under this Act, then, the depositor aggrieved by such order may, if he considers that no such penalty would have been levied if the amendments made to section 10 by the Finance (No. 2) Act, 1980 had been in force on the date of passing of such order, make an application to the Income-tax Officer for a special review.

(*2*) Where a pre-amendment penalty order has been made the subject matter of any subsequent proceeding by way of an appeal or revision under this Act, the depositor aggrieved by the order passed in any such proceeding or, as the case may be, the last of such proceedings may, if he considers that no such penalty would have been levied if the amendments made to section 10 by the Finance (No. 2) Act, 1980 had been in force on the date of passing of the pre-amendment penalty order, make an application to the authority which passed the order in such proceeding or, as the case may be, the last of such proceedings for a special review.

(*3*) The application referred to in sub-section (*1*) or sub-section (*2*) shall be presented before the 1st day of January, 1981:

Provided that the Income-tax Officer or the other authority to whom an application for special review is made may admit such application after the said date if he or it is satisfied that the depositor had sufficient cause for not presenting it before the said date.

(*4*) The Income-tax Officer or other authority to whom the application for special review is made under sub-section (*1*) or sub-section (*2*), may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such order as he or it thinks fit.

(*5*) The provisions of section 12 shall, so far as may be, apply in relation to an order passed under sub-section (*4*) as they apply in relation to a pre-amendment penalty order or, as the case may be, an order passed by any other authority under that section.

(*6*) The special review under this section shall be in addition to and not in derogation of any other remedy which an aggrieved depositor may have under this Act.

Explanation. — For the purposes of this section, "authority" includes the Appellate Tribunal.';

(*h*) in section 13, in sub-section (*1*), after the words "the Appellate Assistant Commissioner,", the words and brackets "the Commissioner (Appeals)," shall be inserted.

54. **Repeal.** — Section 2 of the Finance Act, 1980 is hereby repealed and shall be deemed never to have been enacted. 13 of 1980.

THE FIRST SCHEDULE

(*See* section 2)

PART I

Income-tax and surcharge on income-tax

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies, —

Rates of income-tax

(1) where the total income does not exceed Rs. 8,000	*Nil*;
(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	15 per cent. of the amount by which the total income exceeds Rs. 8,000;
(3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,050 *plus* 18 per cent. of the amount by which the total income exceeds Rs. 15,000;
(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 1,950 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 20,000;
(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 3,200 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 25,000;
(6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 4,700 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 30,000;
(7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 12,700 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 50,000;
(8) where the total income exceeds Rs. 70,000 but does not exceed Rs. 1,00,000	Rs. 22,700 *plus* 55 per cent. of the amount by which the total income exceeds Rs. 70,000;
(9) where the total income exceeds Rs. 1,00,000	Rs. 39,200 *plus* 60 per cent. of the amount by which the total income exceeds Rs. 1,00,000:

Provided that for the purposes of this Sub-Paragraph, —

(*i*) no income-tax shall be payable on a total income not exceeding Rs. 10,000;

(*ii*) where the total income exceeds Rs. 10,000 but does not exceed Rs. 12,000, the income-tax payable thereon shall not exceed thirty per cent. of the amount by which the total income exceeds Rs. 10,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of twenty per cent. of such income-tax.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1980 exceeds Rs. 10,000, —

Rates of income-tax

(1) where the total income does not exceed Rs. 8,000	*Nil;*
(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	18 per cent. of the amount by which the total income exceeds Rs. 8,000;
(3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,260 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 15,000;
(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 2,510 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000;
(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 4,010 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 25,000;
(6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 6,010 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 30,000;
(7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 16,010 *plus* 55 per cent. of the amount by which the total income exceeds Rs. 50,000;
(8) where the total income exceeds Rs. 70,000	Rs. 27,010 *plus* 60 per cent. of the amount by which the total income exceeds Rs. 70,000:

Provided that for the purposes of this Sub-Paragraph, —

(*i*) no income-tax shall be payable on a total income not exceeding Rs. 10,000;

(*ii*) where the total income exceeds Rs. 10,000 but does not exceed Rs. 13,000, the income-tax payable thereon shall not exceed thirty per cent. of the amount by which the total income exceeds Rs. 10,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of twenty per cent. of such income-tax.

Paragraph B

In the case of every co-operative society, —

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	15 per cent. of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,500 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where th total income exceeds Rs. 20,000	Rs. 4,000 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of twenty per cent. of such income-tax.

Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies, —

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	*Nil;*
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	5 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 750 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,500 *plus* 15 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000	Rs. 10,000 *plus* 24 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of twenty per cent. of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	*Nil;*
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	4 per cent. of the amount by which the total income exceeds Rs. 10,000;

(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 600 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,350 *plus* 13 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000	Rs. 8,850 *plus* 22 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of twenty per cent. of such income-tax.

Explanation. — For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rates of income-tax

On the whole of the total income	50 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of twenty per cent. of such income-tax.

Paragraph E

In the case of a company, —

Rates of income-tax

I. In the case of a domestic company, —

(1) where the company is a company in which the public are substantially interested, —	
(*i*) in a case where the total income does not exceed Rs. 1,00,000	45 per cent. of the total income;
(*ii*) in a case where the total income exceeds Rs. 1,00,000	55 per cent. of the total income;
(2) where the company is not a company in which the public are substantially interested, —	
(*i*) in the case of an industrial company, —	
(*a*) where the total income does not exceed Rs. 2,00,000	55 per cent. of the total income;
(*b*) where the total income exceeds Rs. 2,00,000	60 per cent. of the total income;
(*ii*) in any other case	65 per cent. of the total income:

Provided that —

(*i*) the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000, shall not exceed the aggregate of —

(*a*) the income-tax which would have been payable by the company if its total income had been Rs. 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(*b*) eighty per cent. of the amount by which its total income exceeds Rs. 1,00,000;

(*ii*) the income-tax payable by a domestic company, not being a company in which the public are substantially interested, which is an industrial company and the total income of which exceeds Rs. 2,00,000, shall not exceed the aggregate of —

(*a*) the income-tax which would have been payable by the company if its total income had been Rs. 2,00,000 (the income of Rs. 2,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(*b*) eighty per cent. of the amount by which its total income exceeds Rs. 2,00,000.

II. In the case of a company other than a domestic company, —

(*i*) on so much of the total income as consists of —	
(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or	
(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent.;
(*ii*) on the balance, if any, of the total income	70 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of seven and half per cent. of such income-tax.

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the

rates in force, deduction shall be made from the income subject to deduction at the following rates: —

	Income-tax	
	Rate of income-tax	Rate of surcharge
1. In the case of a person other than a company —		
(*a*) where the person is resident in India —		
(*i*) on income by way of interest other than "Interest on securities"	10 per cent.	*Nil;*
(*ii*) on income by way of winnings from lotteries and crossword puzzles	30 per cent.	3 per cent.;
(*iii*) on income by way of winnings from horse races	30 per cent.	3 per cent.;
(*iv*) on income by way of insurance commission	10 per cent.	*Nil;*
(*v*) on income by way of interest payable on —	10 per cent.	*Nil;*
(*A*) any security, other than a tax-free security, of the Central or a State Government		
(*B*) any debentures or other securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act		
(*C*) any debentures issued by a company where such debentures are listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956, and any rules made thereunder		42 of 1956.
(*vi*) on any other income (excluding interest payable on a tax-free security)	21 per cent.	2 per cent.;
(*b*) where the person is not resident in India —		
(*i*) on the whole income (excluding interest payable on a tax-free security)	income-tax at 30 per cent. and surcharge at 3 per cent. of the amount of the income, **or** income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher;	
(*ii*) on income by way of interest payable on a tax-free security	15 per cent.	1.5 per cent.;
2. In the case of a company —		
(*a*) where the company is a domestic company —		
(*i*) on income by way of interest other than "Interest on securities"	20 per cent.	1.5 per cent.;
(*ii*) on any other income (excluding interest payable on a tax-free security)	21.5 per cent.	1.5 per cent.;
(*b*) where the company is not a domestic company —		
(*i*) on income by way of dividends payable by any domestic company	25 per cent.	*Nil;*
(*ii*) on income by way of royalty payable by an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern	40 per cent.	*Nil;*
(*iii*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*) (*ii*)] payable by an Indian concern in pursuance of an agreement made by it with the Indian concern and which has been approved by the Central Government, —		
(*A*) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.	3.75 per cent.;
(*B*) where the agreement is made after the 31st day of March, 1976 —		
(*1*) on so much of the amount of such income as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, or trade mark or similar property	20 per cent.	*Nil;*
(*2*) on the balance, if any, of such income	40 per cent.	*Nil;*
(*iv*) on income by way of fees for technical services payable by an Indian concern in pursuance of an agreement made by it with the Indian concern and which has been approved by the Central Government —	50 per cent.	3.75 per cent.;
(*A*) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976		
(*B*) where the agreement is made after the 31st day of March, 1976	40 per cent.	*Nil;*
(*v*) on income by way of interest payable on a tax-free security	44 per cent.	3.3 per cent.;
(*vi*) on any other income	70 per cent.	5.25 per cent.

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax".

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charge under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under Chapter XII or section 164 of the Income-tax Act at the rates as specified in that Chapter or section), shall be so calculated, charged, deducted or computed at the following rate or rates: —

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies, —

Rates of income-tax

(1) where the total income does not exceed Rs. 8,000	*Nil;*
(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	15 per cent. of the amount by which the total income exceeds Rs. 8,000;
(3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,050 *plus* 18 per cent. of the amount by which the total income exceeds Rs. 15,000;
(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 1,950 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 20,000;
(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 3,200 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 25,000;
(6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 4,700 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 30,000;
(7) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 12,700 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 50,000;
(8) where the total income exceeds Rs. 70,000 but does not exceed Rs. 1,00,000	Rs. 22,700 *plus* 55 per cent. of the amount by which the total income exceeds Rs. 70,000;
(9) where the total income exceeds Rs. 1,00,000	Rs. 39,200 *plus* 60 per cent. of the amount by which the total income exceeds Rs. 1,00,000:

Provided that for the purposes of this Sub-Paragraph,

(*i*) no income-tax shall be payable on a total income not exceeding Rs. 12,000;

(*ii*) where the total income exceeds Rs. 12,000 but does not exceed Rs. 16,250, the income-tax payable thereon shall not exceed thirty per cent. of the amount by which the total income exceeds Rs. 12,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1981 exceeds Rs. 12,000, —

Rates of income-tax

(1) where the total income does not exceed Rs. 8,000	*Nil;*
(2) where the total income exceeds Rs. 8,000 but does not exceed Rs. 15,000	22 per cent. of the amount by which the total income exceeds Rs. 8,000;
(3) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,540 *plus* 27 per cent. of the amount by which the total income exceeds Rs. 15,000;
(4) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 2,890 *plus* 35 per cent. of the amount by which the total income exceeds Rs. 20,000;
(5) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 4,640 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 25,000;
(6) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 6,640 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 30,000;
(7) where the total income exceeds Rs. 50,000	Rs. 16,640 *plus* 60 per cent. of the amount by which the total income exceeds Rs. 50,000:

Provided that for the purposes of this Sub-Paragraph, —

(*i*) no income-tax shall be payable on a total income not exceeding Rs. 12,000;

(*ii*) where the total income exceeds Rs. 12,000 but does not exceed Rs. 17,610, the income-tax payable therein shall not exceed forty per cent. of the amount by which the total income exceeds Rs. 12,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Paragraph B

In the case of every co-operative society, —

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	15 per cent. of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,500 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 4,000 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies, —

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	*Nil;*
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	5 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 750 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,500 *plus* 15 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000	Rs. 10,000 *plus* 24 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income, —

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	*Nil;*
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	4 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 600 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,350 *plus* 13 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000	Rs. 8,850 *plus* 22 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Explanation. — For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority, —

Rates of income-tax

On the whole of the total income	50 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Paragraph E

In the case of a company, —

Rates of income-tax

I. In the case of a domestic company, —

(1) where the company is a company in which the public are substantially interested, —	
(*i*) in a case where the total income does not exceed Rs. 1,00,000	45 per cent. of the total income;
(*ii*) in a case where the total income exceeds Rs. 1,00,000	55 per cent. of the total income;
(2) where the company is not a company in which the public are substantially interested, —	
(*i*) in the case of an industrial company, —	
(*a*) where the total income does not exceed Rs. 2,00,000	55 per cent. of the total income;
(*b*) where the total income exceeds Rs. 2,00,000	60 per cent. of the total income;
(*ii*) in any other case	65 per cent. of the total income:

Provided that —

(*i*) the income-tax payable by a domestic company being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000, shall not exceed the aggregate of —

(*a*) the income-tax which would have been payable by the company if its total income had

been Rs. 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(*b*) eighty per cent. of the amount by which its total income exceeds Rs. 1,00,000;

(*ii*) the income-tax payable by a domestic company, not being a company in which the public are substantially interested, which is an industrial company and the total income of which exceeds Rs. 2,00,000, shall not exceed the aggregate of —

(*a*) the income-tax which would have been payable by the company if its total income had been Rs. 2,00,000 (the income of Rs. 2,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(*b*) eighty per cent. of the amount by which its total income exceeds Rs. 2,00,000.

II. In the case of a company other than a domestic company, —

(*i*) on so much of the total income as consists of —	
(*a*) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or	
(*b*) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent.;
(*ii*) on the balance, if any, of the total income	70 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of seven and half per cent. of such income-tax.

PART IV

[*See* section 2(7) (*e*)]

Rules for computation of net agricultural income

Rule 1. — Agricultural income of the nature referred to in sub-clause (*a*) of clause (*1*) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (*2*) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (*3*) and (*4*) of section 40A.

Rule 2. — Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 34, 36, 37, 38, 40, 40A [other than sub-sections (*3*) and (*4*) thereof], 41, 43 and 43A of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3. — Agricultural income of the nature referred to in sub-clause (*c*) of clause (*1*) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (*2*) of the said section 23 shall apply subject to the modifications that the references to the "total income" therein shall be construed as references to net agricultural income and that the words, figures and letter "and before making any deduction under Chapter VIA" shall be omitted.

Rule 4. — Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rule 5. — Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act, which in the previous year has any agricultural income, or is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of the said section 183 and which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unregistered firm but has any agricultural income, then, the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section (*1*), sub-section (*2*) and sub-section (*3*) of section 67 of the Income-tax Act and the share so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6. — Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an asso-

ciation of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 7. — Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (*b*) of section 183 of the Income-tax Act or is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 8. — Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 9. — (*1*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1980, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1974 or the 1st day of April, 1975 or the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979, is a loss, then, for the purposes of sub-section (*2*) of section 2 of this Act, —

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1975 or the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1975, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1976, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1977, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1978 or the 1st day of April, 1979,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1978, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1979, and

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1979,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1980.

(*2*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1981 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1974 or the 1st day of April, 1975 or the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979 or the 1st day of April, 1980, is a loss, then, for the purposes of sub-section (*6*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1975 or the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979 or the 1st day of April, 1980,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1975, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979 or the 1st day of April, 1980,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1976 to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979 or the 1st day of April, 1980,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on

the 1st day of April, 1977, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1978 or the 1st day of April, 1979 or the 1st day of April, 1980,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1978, to the extent, if any, such loss has been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1979 or the 1st day of April, 1980,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1979, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1980, and

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1980,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1981, or the period aforesaid.

(*3*) Where a change has occurred in the constitution of a firm, nothing in sub-rule (*1*) or sub-rule (*2*) shall entitle the firm to set off so much of the loss proportionate to the share of a retired or deceased partner computed in the manner laid down in sub-section (*1*), sub-section (*2*) and sub-section (*3*) of section 67 of the Income-tax Act as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss (computed in the manner aforesaid) which is not apportionable to him.

(*4*) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (*1*) or sub-rule (*2*) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*).

(*5*) Notwithstanding anything contained in this rule, no loss which has not been determined by the Income-tax Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1974, or of the First Schedule to the Finance Act, 1975, or of the First Schedule to the Finance Act, 1976, or of the First Schedule to the Finance (No. 2) Act, 1977, or of the Schedule to the Finance Act, 1978, or of the First Schedule to the Finance Act, 1979, shall be set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*).

20 of 1974.
25 of 1975.
66 of 1976.
29 of 1977.
19 of 1978.
21 of 1979.

Rule 10. — Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 11. — The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 12. — For the purposes of computing the net agricultural income of the assessee, the Income-tax Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

(*See* section 45)

PART I

In the First Schedule to the Customs Tariff Act, —

(*i*) the entry in column (5) in sub-heading No. (5) of Heading No. 29.01/45, sub-heading No. (6) of Heading No. 29.01/45, Heading No. 50.01, Heading No. 50.02, sub-heading No. (1) of Heading No. 50.03/08 and sub-heading No. (1) of Heading No. 50.09/10 shall be omitted;

(*ii*) in sub-heading No. (2) of Heading No. 37.01/08, for the entry in column (3), the entry "Re. 1.00 per linear metre" shall be substituted;

(*iii*) in Heading No. 100.01, for the entry in column (3), the entry "300%" shall be substituted.

PART II

Heading No.	Sub-heading No. and description of article	Rate of duty		Duration when rates of duty are protective
		Standard	Preferential Areas	
(1)	(2)	(3)	(4)	(5)

In the First Schedule to the Customs Tariff Act, for Heading No. 100.02, the following Heading shall be substituted, namely: —

"100.02	All dutiable articles even if elsewhere specified, intended for personal use, imported by post or air, and exempt from any prohibition in respect of the import thereof under the Imports and Exports (Control) Act, 1947 (18 of 1947), but excluding articles falling under Heading No. 100.01 and alcoholic drinks:			
	(1) drugs and medicines	60%	..	..
	(2) others	100%	..	.."

THE THIRD SCHEDULE

(*See* section 46)

PART I

In the First Schedule to the Central Excises Act,—

(*i*) in Item No. 14A, for the entry in the third column, the entry "Fifteen per cent. *ad valorem.*" shall be substituted;

(*ii*) in Item No. 14B, for the entry in the third column, the entry "Fifteen per cent. *ad valorem.*" shall be substituted;

(*iii*) in Item No. 14G, for the entry in the third column, the entry "Fifteen per cent. *ad valorem.*" shall be substituted;

(*iv*) in Item No. 15C, for the entry in the third column, the entry "Fifteen per cent. *ad valorem.*" shall be substituted;

(*v*) in Item No. 16AA, for the entry in the third column, the entry "Ten per cent. *ad valorem.*" shall be substituted;

(*vi*) in Item No. 26A, in the entry in the second column, —

(*a*) the words "AND COPPER ALLOYS CONTAINING NOT LESS THAN FIFTY PER CENT. BY WEIGHT OF COPPER" shall be omitted;

(*b*) the following *Explanation* shall be inserted at the end, namely: —

'*Explanation.* — "COPPER" shall include any alloy in which copper predominates by weight over each of the other metals.';

(*vii*) in Item No. 26B, in the second column, the following *Explanation* shall be inserted at the end, namely: —

'*Explanation.* — "ZINC" shall include any alloy in which zinc predominates by weight over each of the other metals.';

(*viii*) in Item No. 27A, in the second column, the following *Explanation* shall be inserted at the end, namely: —

'*Explanation.* — "LEAD" shall include any alloy in which lead predominates by weight over each of the other metals.';

(*ix*) in Item No. 68, in the second column, the following *Explanation* shall be inserted at the end, namely: —

"*Explanation.* — For the purposes of this Item, goods, which are referred to in any preceding Item in this Schedule for the purpose of excluding such goods from the description of goods in that Item (whether such exclusion is by means of an *Explanation* to such Item or by words of exclusion in the description itself or in any other manner) shall be deemed to be goods not specified in that Item.".

PART II

Item No. (1)	Description of goods (2)	Rate of duty (3)

In the First Schedule to the Central Excises Act,—

(*i*) after Item No. 15C, the following Item shall be inserted, namely: —

"15CC.	MOLASSES	Thirty rupees per metric tonne.";

(*ii*) for Item No. 16B, the following Item shall be substituted, namely: —

"16B.	PLYWOOD, BLOCKBOARD, BATTEN BOARD, HARD OR SOFT WALL BOARDS OR INSULATING BOARD AND VENEERED PANELS, WHETHER OR NOT CONTAINING ANY MATERIAL OTHER THAN WOOD; CELLULAR WOOD PANELS; BUILDING BOARDS OF WOOD PULP OR OF VEGETABLE FIBRE, WHETHER OR NOT BONDED WITH NATURAL OR ARTIFICIAL RESINS OR WITH SIMILAR BINDERS; AND ARTIFICIAL OR RECONSTITUTED WOOD BEING WOOD SHAVINGS, WOOD CHIPS, SAW DUST, WOOD FLOUR OR OTHER LIGNEOUS WASTE AGGLOMERATED WITH NATURAL OR ARTIFICIAL RESINS OR OTHER ORGANIC BINDING SUBSTANCES, IN SHEETS, BLOCKS, BOARDS OR THE LIKE.	Thirty per cent *ad valorem.*";

(*iii*) for item No. 19, the following item shall be substituted, namely: —

'19.	COTTON FABRICS — "Cotton fabrics" means all varieties of fabrics manufactured either wholly or partly from cotton and includes dhoties, sarees, chaddars, bedsheets, bed-spreads, counterpanes, table-cloths, embroidery in the piece, in strips or in motifs, fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials and fabrics covered partially or fully with textile flocks or with preparations containing textile flocks, if (*i*) in such fabrics cotton predominates in weight, or (*ii*) such fabrics contain more than 40 per cent. by weight of cotton and 50 per cent. or more by weight of non-cellulosic fibres or yarn or both: Provided that in the case of embroidery in the piece, in strips or in motifs, fabrics impregnated, coated or laminated with preparations of cellulose derivaties or of other artificial plastic materials and fabrics covered partially or fully with textile flocks or with preparations containing textile flocks, such predominance or percentages, as the case may be, shall be in relation to the base fabrics which are embroidered or impregnated, coated or laminated or covered, as the case may be — I. Cotton fabrics, other than (*i*) embroidery in the piece, in strips or in motifs, (*ii*) fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of artificial plastic materials and (*iii*) fabrics covered partially or fully with textile flocks or with preparations containing textile flocks —	
	(*a*) cotton fabrics, not subjected to any process	Twenty per cent. *ad valorem.*
	(*b*) cotton fabrics, subjected to the process of bleaching, mercerising, dye-	Twenty per cent. *ad valorem.*

Item No. (1)	Description of goods (2)	Rate of duty (3)
	ing, printing, water-proofing, rubberising, shrink-proofing, organdie processing or any other process or any two or more of these processes.	
	II. Embroidery in the piece, in strips or in motifs, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power	The duty for the time being leviable on the base fabrics, if not already, paid, *plus* twenty per cent. *ad valorem*.
	III. Cotton fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials.	The duty for the time being leviable on the base fabrics, if not already, paid, *plus* thirty per cent. *ad valorem*.
	IV. Cotton fabrics covered partially or fully with textile flocks or with preparations containing textile flocks such as flock printed fabrics and flock coated fabrics.	The duty for the time being leviable on the base fabrics, if not already, paid, *plus* thirty per cent. *ad valorem*.
	Explanation I. —"Base fabrics" means fabrics falling under sub-item I of this Item which are subjected to the process of embroidery or which are impregnated, coated or laminated with preparations of cellulose derivatives or of other plastic materials or which are covered partially or fully with textile flocks or with preparations containing textile flocks.	
	Explanation II. —Where two or more of the following fibres, that is to say, (*a*) man-made fibre of cellulosic origin; (*b*) cotton; (*c*) wool; (*d*) silk (including silk noil); (*e*) jute (including Bimlipatam jute or mesta fibre); (*f*) man-made fibre of non-cellulosic origin; (*g*) flax; (*h*) ramie, in any fabric are equal in weight, then, such one of those fibres the predominance of which would render such fabric fall under that Item (hereafter in this *Explanation* referred to as the applicable Item) among the Items Nos. 19, 20, 21, 22, 22A and 22AA, which, read with the relevant notification, if any, for the time being in force issued under the Central Excise Rules, 1944, involves the highest amount of duty, shall be deemed to be predominant in such fabric and accordingly such fabric shall be deemed to fall under the applicable Item.	
	Explanation III.— This Item does not include floor coverings, falling under Item No. 22G.';	

(*iv*) for Item No. 22, the following Item shall be substituted, namely: —

"22. MAN-MADE FABRICS —

Item No. (1)	Description of goods (2)	Rate of duty (3)
	"Man-made fabrics" means all varieties of fabrics manufactured either wholly or partly from man-made fibres or yarn and includes embroidery in the piece, in strips or in motifs, fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials and fabrics covered partially or fully with textile flocks or with preparations containing textile flocks, in each of which man-made (*i*) cellulosic fibre or yarn, or (*ii*) non-cellulosic fibre or yarn, predominates in weight: Provided that in the case of embroidery in the piece, in strips or in motifs, fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials and fabrics covered partially or fully with textile flocks or with preparations containing textile flocks, such predominance shall be in relation to the base fabrics which are embroidered or impregnated, coated or laminated or covered, as the case may be —	
	(1) Man-made fabrics other than (*i*) embroidery in the piece, in strips or in motifs, (*ii*) fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials and (*iii*) fabrics covered partially or fully with textile flocks or with preparations containing textile flocks —	
	(*a*) man-made fabrics, not subjected to any process.	Twenty per cent. *ad valorem plus* rupees five per square metre.
	(*b*) man-made fabrics, subjected to the process of bleaching, dyeing, printing, shrink-proofing, tentering, heat-setting, crease resistant processing or any other process or any two or more of these processes.	Twenty per cent. *ad valorem plus* rupees five per square metre.
	(2) Embroidery in the piece, in strips or in motifs, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power.	The duty for the time being leviable on the base fabrics, if not already, paid, *plus* twenty per cent. *ad valorem*.
	(3) Fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials.	The duty for the time being leviable on the base fabrics, if not already, paid, *plus* thirty per cent. *ad valorem*.
	(4) Fabrics covered partially or fully with textile	The duty for the time being leviable on the

Item No. (1)	Description of goods (2)	Rate of duty (3)
	flocks or with preparations containing textiles flocks such as flock printed fabrics and flock coated fabrics.	base fabrics, if not already, paid, *plus* thirty per cent. *ad valorem*.
	Explanation I:. — "Base fabrics" means fabrics falling under sub-item (1) of this Item which are subjected to the process of embroidery or which are impregnated, coated or laminated with preparations of cellulose derivatives or of other plastic materials or which are covered partially or fully with textile flocks or with preparations containing textile flocks.	
	Explanation II. — This Item does not include glass fabrics or fabrics falling under Item No. 19 or Item No. 21.	
	Explanation III. — *Explanation II* under Item No. 19 shall, so far as may be, apply in relation to this Item as it applies in relation to that Item.	
	Explanation IV. —This Item does not include floor coverings, falling under Item No. 22G.';	

(*v*) for Item No. 22F, the following Item shall be substituted, namely: —

"22F.	MINERAL FIBRES AND YARN, AND MANUFACTURES THEREFROM, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER, THE FOLLOWING, NAMELY: —	
	(1) Glass fibre and yarn including glass tissues and glass wool;	Fifteen per cent. *ad valorem*.
	(2) Asbestos fibre and yarn;	Fifteen per cent. *ad valorem*.
	(3) Any other mineral fibre or yarn, whether continuous or otherwise, such as slag wool and rock wool;	Fifteen per cent. *ad valorem*.
	(4) Other manufactures in which mineral fibres or yarn or both predominate or predominates in weight.	Fifteen per cent. *ad valorem*.
	Explanation. — This Item does not include asbestos cement products.";	

(*vi*) in Item No. 27, —

(*a*) for sub-item (*f*), the following sub-item shall be substituted, namely: —

	"(*f*) containers, plain, lacquered, or printed, or lacquered and printed.	Fifty per cent. *ad valorem plus* two thousand rupees per metric tonne.";

(*b*) the *Explanation* shall be numbered as *Explanation I*, and, —

(*i*) in *Explanation* I, as so numbered, for the word "casks", the words "collapsible tubes, casks" shall be substituted; and

(*ii*) after *Explanation I*, as so numbered, the following *Explanation* shall be inserted, namely: —

'*Explanation II*. — In this Item, the expression "Aluminimum" shall include any alloy in which aluminium predominates by weight over each of the other metals'.

THE FOURTH SCHEDULE

(*See* section 48)

Item No. (1)	Description of goods (2)	Rate of duty (3)
	In the First Schedule to the Additional Duties of Excise Act, —	
	(*i*) in Item No. 19,	
	(*a*) for sub-item I, the following sub-item shall be substituted, namely: —	
	"I. Cotton fabrics, other than (*i*) embroidery in the piece, in strips or in motifs, (*ii*) fabrics impregnated, coated or laminated with preparation of cellulose derivatives or of other artificial plastic materials and (*iii*) fabrics covered partially or fully with textile flocks or with preparations containing textile flocks —	
	(*a*) cotton fabrics, not subjected to any process.	Five per cent. *ad valorem*
	(*b*) cotton fabrics subjected to the process of bleaching, mercerising, dyeing, printing, water-proofing, rubberising, shrink-proofing, organdie processing or any other process or any two or more of these processes.	Five per cent. *ad valorem*.";
	(*b*) after sub-item III, the following sub-item shall be inserted, namely: —	
	"IV. Cotton fabrics covered partially or fully with textile flocks or with preparations containing textile flocks such as flock printed fabrics and flock coated fabrics;	The duty for the time being leviable on the base fabrics, if not already paid.";
	(*ii*) in Item No. 22,	
	(*a*) for sub-item (1), the following sub-item shall be substituted, namely: —	
	"(1) Man-made fabrics, other than (*i*) embroidery in the piece, in strips or in motifs, (*ii*) fabrics impregnated, coated or laminated with preparations of cellulose derivatives or of other artificial plastic materials and (*iii*) fabrics covered partially or fully with textile flocks or with preparations containing textile flocks —	
	(*a*) man-made fabrics, not subjected to any process.	Seven and a half per cent. *ad valorem plus* rupees two per square metre.
	(*b*) man-made fabrics, subjected to the process of bleaching, dyeing, printing,	Seven and a half per cent. *ad valorem plus* rupees two per

Item No. (1)	Description of goods (2)	Rate of duty (3)
	shrink-proofing, tentering, heat-setting, crease resistant processing or any other process or any two or more of these processes.	square metre.";

(*b*) after sub-item (*3*), the following sub-item shall be inserted, namely: —

	"(4) Fabrics covered partially or fully with textile flocks or with preparations containing textile flocks such as flock printed fabrics and flock coated fabrics.	The duty for the time being leviable on the base fabrics, if not already paid."

THE FIFTH SCHEDULE

(*See* section 50)

PART I

Amendments in the Customs Act, 1962

1. Section 2. —

(*a*) For clause (*1*), substitute —

'(*1*) "adjudicating authority" means any authority competent to pass any order or decision under this Act, but does not include the Board, Collector (Appeals) or Appellate Tribunal;

(*1A*) "aircraft" has the same meaning as in the Aircraft Act, 1934; 22 of 1934.

(*1B*) "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129;';

(*b*) After clause (7), insert —

'(7*A*) "Collector (Appeals)" means a person appointed to be a Collector of Customs (Appeals) under sub-section (*1*) of section 4;'.

2. Section 3. — For clause (*b*), substitute —

"(*b*) Collectors of Customs (Appeals);".

3. Section 5, in sub-section (*3*). — For "an Appellate Collector of Customs", substitute "a Collector (Appeals)".

4. For Chapter XV, substitute —

'CHAPTER XV

Appeals

128. **Appeals to Collector (Appeals).** — (*1*) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a Collector of Customs may appeal to the Collector (Appeals) within three months from the date of the communication to him of such decision or order:

Provided that the Collector (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(*2*) Every appeal under this section shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf.

128A. **Procedure in appeal.** — (*1*) The Collector (Appeals) shall give an opportunity to the appellant to be heard if he so desires.

(*2*) The Collector (Appeals) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Collector (Appeals) is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(*3*) The Collector (Appeals) may, after making such further inquiry as may be necessary, pass such order as he thinks fit confirming, modifying or annulling the decision or order appealed against, or may refer the case back to the adjudicating authority with such directions as he may think fit for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Collector (Appeals) is of opinion that any duty has not been levied or has been short-levied or erroneously refunded, no order requiring the appellant to pay any duty not levied, short-levied or erroneously refunded shall be passed unless the appellant is given notice within the time-limit specified in section 28 to show cause against the proposed order.

(*4*) The order of the Collector (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(*5*) On the disposal of the appeal, the Collector (Appeals) shall communicate the order passed by him to the appellant, the adjudicating authority and the Collector of Customs.

129. **Appellate Tribunal.** — (*1*) The Central Government shall constitute an Appellate Tribunal to be called the Customs, Excise and Gold (Control) Appellate Tribunal consisting of as many judicial and technical members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

(*2*) A judicial member shall be a person who has for at least ten years held a civil judicial post or who has been a member of the Central Legal Service (not below Grade I) for at least three years or who has been in practice as an advocate for at least ten years; and a technical member shall be a person who has been a member of the Indian Customs and Central Excise Service — Group A and has held the post of Collector of Customs or Central Excise, Level I or any equivalent or higher post for at least three years.

(*3*) The Central Government shall appoint one of the members of the Appellate Tribunal to be the President thereof.

(*4*) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President, or, as the case may be, Vice-Presidents, thereof.

(*5*) The Vice-President shall exercise such of the powers and perform such of the functions of the

President as may be delegated to him by the President by a general or special order in writing.

129A. **Appeals to the Appellate Tribunal.** — (*1*) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order —

(*a*) a decision or order passed by the Collector of Customs as an adjudicating authority;

(*b*) an order passed by the Collector (Appeals) under section 128A;

(*c*) an order passed by the Board or the Appellate Collector of Customs under section 128, as it stood immediately before the appointed day;

(*d*) an order passed by the Board or the Collector of Customs, either before or after the appointed day, under section 130, as it stood immediately before that day:

Provided that the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in clause (*b*) or clause (*c*) or clause (*d*) where —

(*i*) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 125; or

(*ii*) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(*iii*) the amount of fine or penalty determined by such order,

does not exceed ten thousand rupees.

(*2*) The Collector of Customs may, if he is of opinion that an order passed by the Appellate Collector of Customs under section 128, as it stood immediately before the appointed day, or the Collector (Appeals) under section 128A, is not legal or proper, direct the proper officer to appeal on his behalf to the Appellate Tribunal against such order.

(*3*) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the Collector of Customs, or as the case may be, the other party preferring the appeal.

(*4*) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in such manner as may be specified by rules made in this behalf against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (*3*).

(*5*) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (*3*) or sub-section (*4*), if it is satisfied that there was sufficient cause for not presenting it within that period.

(*6*) An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall, except in the case of an appeal referred to in sub-section (*2*) or a memorandum of cross-objections referred to in sub-section (*4*), be accompanied by a fee of two hundred rupees.

129B. **Orders of Appellate Tribunal.** — (*1*) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the authority which passed such decision or order with such directions as the Appellate Tribunal may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

(*2*) The Appellate Tribunal may, at any time within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (*1*) and shall make such amendments if the mistake is brought to its notice by the Collector of Customs or the other party to the appeal:

Provided that an amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the other party shall not be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

(*3*) The Appellate Tribunal shall send a copy of every order passed under this section to the Collector of Customs and the other party to the appeal.

(*4*) Save as otherwise provided in section 130 or section 130E, orders passed by the Appellate Tribunal on appeal shall be final.

129C. **Procedure of Appellate Tribunal.** — (*1*) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President from amongst the members thereof.

(*2*) Subject to the provisions contained in sub-sections (*3*) and (*4*), a Bench shall consist of one judicial member and one technical member.

(*3*) Every appeal against a decision or order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment, shall be heard by a Special Bench constituted by the President for hearing such appeals and such Bench shall consist of not less than three members and shall include at least one judicial member and one technical member.

(*4*) The President or any other member of the Appellate Tribunal authorised in this behalf by the President may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member where —

(*a*) the value of the goods confiscated without option having been given to the owner of the

goods to pay a fine in lieu of confiscation under section 125; or

(*b*) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(*c*) the amount of fine or penalty involved, does not exceed ten thousand rupees.

(*5*) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ and the case shall be referred by the President for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case including those who first heard it.

(*6*) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(*7*) The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely: — 5 of 1908.

(*a*) discovery and inspection;

(*b*) enforcing the attendance of any person and examining him on oath;

(*c*) compelling the production of books of account and other documents; and

(*d*) issuing commissions.

(*8*) Any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

129D. **Powers of Board or Collector of Customs to pass certain orders.** — (*1*) The Board may, of its own motion, call for and examine the record of any proceeding in which a Collector of Customs as an adjudicating authority has passed any decision or order under this Act for the purpose of satisfying itself as to the legality or propriety of any such decision or order and may, by order, direct such Collector to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order as may be specified by the Board in its order.

(*2*) The Collector of Customs may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority subordinate to him has passed any decision or order under this Act for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority to apply to the Collector (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Collector of Customs in his order.

(*3*) No order shall be made under sub-section (*1*) or sub-section (*2*) after the expiry of two years from the date of the decision or order of the adjudicating authority.

(*4*) Where in pursuance of an order under sub-section (*1*) or sub-section (*2*), the adjudicating authority or any officer of customs authorised in this behalf by the Collector of Customs, makes an application to the Appellate Tribunal or the Collector (Appeals) within a period of three months from the date of communication of the order under sub-section (*1*) or sub-section (*2*) to the adjudicating authority, such application shall be heard by the Appellate Tribunal or the Collector (Appeals), as the case may be, as if such application were an appeal made against the decision or order of the adjudicating authority and the provisions of this Act regarding appeals, including the provisions of sub-section (*4*) of section 129A shall, so far as may be, apply to such application.

129E. **Deposit, pending appeal, of duty demanded or penalty levied.** — Where in any appeal under this Chapter, the decision or order appealed against relates to any duty demanded in respect of goods which are not under the control of the customs authorities or any penalty levied under this Act, the person desirous of appealing against such decision or order shall, pending the appeal, deposit with the proper officer the duty demanded or the penalty levied:

Provided that where in any particular case, the Collector (Appeals) or the Appellate Tribunal is of opinion that the deposit of duty demanded or penalty levied would cause undue hardship to such person, the Collector (Appeals) or, as the case may be, the Appellate Tribunal may dispense with such deposit subject to such conditions as he or it may deem fit to impose so as to safeguard the interests of revenue.

130. **Statement of case to High Court.** — (*1*) The Collector of Customs or the other party may, within sixty days of the date upon which he is served with notice of an order under section 129B (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment), by application in such form as may be specified by rules made in this behalf, accompanied, where the application is made by the other party, by a fee of two hundred rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by

sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days.

(2) On receipt of notice that an application has been made under sub-section (1), the person against whom such application has been made, may, notwithstanding that he may not have filed such an application, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in such manner as may be specified by rules made in this behalf against any part of the order in relation to which an application for reference has been made and such memorandum shall be disposed of by the Appellate Tribunal as if it were an application presented within the time specified in sub-section (1).

(3) If, on an application made under sub-section (1), the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the Collector of Customs, or, as the case may be, the other party may, within six months from the date on which he is served with notice of such refusal, apply to the High Court and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition, the Appellate Tribunal shall state the case and refer it accordingly.

(4) Where in the exercise of its powers under sub-section (3), the Appellate Tribunal refuses to state a case which it has been required by an applicant to state, the applicant may, within thirty days from the date on which he receives notice of such refusal, withdraw his application and, if he does so, the fee, if any, paid by him shall be refunded.

130A. **Statement of case to Supreme Court in certain cases.** — If, on an application made under section 130, the Appellate Tribunal is of opinion that, on account of conflict in the decisions of High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through the President direct to the Supreme Court.

130B. **Power of High Court or Supreme Court to require statement to be amended.** — If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.

130C. **Case before High Court to be heard by not less than two judges.** — (1) When any case has been referred to the High Court under section 130, it shall be heard by a Bench of not less than two judges of the High Court and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

(2) Where there is no such majority, the judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other judges of the High Court, and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.

130D. **Decision of High Court or Supreme Court on the case stated.** — (1) The High Court or the Supreme Court hearing any such case shall decide the questions of law raised therein, and shall deliver its judgment thereon containing the grounds on which such decision is founded and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case in conformity with such judgment.

(2) The costs of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference shall be in the discretion of the Court.

130E. **Appeal to Supreme Court.** —An appeal shall lie to the Supreme Court from —

(a) any judgment of the High Court delivered on a reference made under section 130 in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after the passing of the judgement, the High Court certifies to be a fit one for appeal to the Supreme Court; or

(b) any order passed by the Appellate Tribunal relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment.

130F. **Hearing before Supreme Court.** (1) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 130E as they apply in the case of appeals from decrees of a High Court: 5 of 1908.

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (1) of section 130D or section 131.

(2) The costs of the appeal shall be in the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 130D in the case of a judgment of the High Court.

131. **Sums due to be paid notwithstanding reference, etc.** — Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, sums due to the Government as a result of an order passed under sub-section (1) of section 129B shall be payable in accordance with the order so passed.

131A. **Exclusion of time taken for copy.** — In computing the period of limitation specified for an appeal or application under this Chapter, the day on which the order complained of was served, and if the party preferring the appeal or making

the application was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order shall be excluded.

131B. **Transfer of certain pending proceedings and transitional provisions.** — (*1*) Every appeal which is pending immediately before the appointed day before the Board under section 128, as it stood immediately before that day, and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal may proceed with such appeal or matter from the stage at which it was on that day:

Provided that the appellant may demand that before proceeding further with that appeal or matter, he may be re-heard.

(*2*) Every proceeding which is pending immediately before the appointed day before the Central Government under section 131, as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal may proceed with such proceeding or matter from the stage at which it was on that day as if such proceeding or matter were an appeal filed before it:

Provided that if any such proceeding or matter relates to an order where —

(*a*) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 125; or

(*b*) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(*c*) the amount of fine or penalty determined by such order,

does not exceed ten thousand rupees, such proceeding or matter shall continue to be dealt with by the Central Government as if the said section 131 had not been substituted:

Provided further that the applicant or the other party may make a demand to the Appellate Tribunal that before proceeding further with that proceeding or matter, he may be re-heard.

(*3*) Every proceeding which is pending immediately before the appointed day before the Board or the Collector of Customs under section 130, as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall continue to be dealt with by the Board or the Collector of Customs, as the case may be, as if the said section had not been substituted.

(*4*) Any person who immediately before the appointed day was authorised to appear in any appeal or proceeding transferred under sub-section (*1*) or sub-section (*2*) shall, notwithstanding anything contained in section 146A, have the right to appear before the Appellate Tribunal in relation to such appeal or proceeding.

131C. **Definitions.** — In this Chapter —

(*a*) "appointed day" means the date of coming into force of the amendments to this Act specified in Part I of the Fifth Schedule to the Finance (No. 2) Act, 1980;

(*b*) "High Court" means, —

(*i*) in relation to any State, the High Court for that State;

(*ii*) in relation to a Union territory to which the jurisdiction of the High Court of a State has been extended by law, that High Court;

(*iii*) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay;

(*iv*) in relation to any other Union territory, the highest court of civil appeal for that territory other than the Supreme Court of India;

(*c*) "President" means the President of the Appellate Tribunal.'.

5. After section 146, insert, —

'146A. **Appearance by authorised representative.**— (*1*) Any person who is entitled or required to appear before an officer of customs or the Appellate Tribunal in connection with any proceedings under this Act, otherwise than when required under section 108 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, appear by an authorised representative.

(*2*) For the purposes of this section, "authorised representative" means a person authorised by the person referred to in sub-section (*1*) to appear on his behalf, being —

(*a*) his relative or regular employee; or

(*b*) a custom house agent licensed under section 146; or

(*c*) any legal practitioner who is entitled to practise in any civil court in India; or

(*d*) any person who has acquired such qualifications as the Central Government may specify by rules made in this behalf.

(*3*) Notwithstanding anything contained in this section, no person who was a member of the Indian Customs and Central Excise Service — Group A and has retired or resigned from such Service after having served for not less than three years in any capacity in that Service shall be entitled to appear as an authorised representative in any proceedings before an officer of customs for a period of two years from the date of his retirement or resignation, as the case may be.

(*4*) No person, —

(*a*) who has been dismissed or removed from Government service; or

(*b*) who is convicted of an offence connected with any proceeding under this Act, the Central Excises and Salt Act, 1944 or the Gold (Control) Act, 1968; or 1 of 1944. 45 of 1968.

(*c*) who has become an insolvent,

shall be qualified to represent any person under sub-section (*1*), for all times in the case of a person

referred to in clause (*a*), and for such time as the Collector of Customs or the competent authority under the Central Excises and Salt Act, 1944, or the Gold (Control) Act, 1968, as the case may be, may, by order, determine in the case of a person referred to in clause (*b*), and for the period during which the insolvency continues in the case of a person referred to in clause (*c*).

(*5*) If any person, —

(*a*) who is a legal practitioner, is found guilty of misconduct in his professional capacity by any authority entitled to institute proceedings against him, an order passed by that authority shall have effect in relation to his right to appear before an officer of customs or the Appellate Tribunal as it has in relation to his right to practise as a legal practitioner;

(*b*) who is not a legal practitioner, is found guilty of misconduct in connection with any proceedings under this Act by such authority as may be specified by rules made in this behalf, that authority may direct that he shall thenceforth be disqualified to represent any person under sub-section (*1*).

(*6*) Any order or direction under clause (*b*) of sub-section (*4*) or clause (*b*) of sub-section (*5*) shall be subject to the following conditions, namely: —

(*a*) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;

(*b*) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and

(*c*) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.'.

PART II

Amendments in the Central Excises and Salt Act, 1944

1. Section 2.— Re-letter clause (*a*) as clause (*aaa*) and before clause (*aaa*) as so re-lettered, insert —

'(*a*) "adjudicating authority" means any authority competent to pass any order or decision under this Act, but does not include the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963, Collector of Central Excise (Appeals) or Appellate Tribunal; 54 of 1963.

(*aa*) "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962;'. 52 of 1962.

2. For sections 35, 35A and 36, substitute —

'CHAPTER VIA

Appeals

35. **Appeals to Collector (Appeals).** — (*1*) Any person aggrieved by any decision or order passed under this Act by a Central Excise Officer lower in rank than a Collector of Central Excise may appeal to the Collector of Central Excise (Appeals) [hereafter in this Chapter referred to as the Collector (Appeals)] within three months from the date of the communication to him of such decision or order:

Provided that the Collector (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(*2*) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.

35A. **Procedure in appeal.** — (*1*) The Collector (Appeals) shall give an opportunity to the appellant to be heard, if he so desires.

(*2*) The Collector (Appeals) may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if the Collector (Appeals) is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(*3*) The Collector (Appeals) may, after making such further inquiry as may be necessary, pass such order as he thinks fit confirming, modifying or annulling the decision or order appealed against, or may refer the case back to the adjudicating authority with such directions as he may think fit for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Collector (Appeals) is of opinion that any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, no order requiring the appellant to pay any duty not levied or paid, short-levied or short-paid or erroneously refunded shall be passed unless the appellant is given notice within the time-limit specified in section 11A to show cause against the proposed order.

(*4*) The order of the Collector (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(*5*) On the disposal of the appeal, the Collector (Appeals) shall communicate the order passed by him to the appellant, the adjudicating authority and the Collector of Central Excise.

35B. **Appeals to the Appellate Tribunal.** — (*1*) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order—

(*a*) a decision or order passed by the Collector of Central Excise as an adjudicating authority;

(*b*) an order passed by the Collector (Appeals) under section 35A;

(*c*) an order passed by the Central Board of Excise and Customs constituted under the Central Boards of Re-

venue Act, 1963 (hereafter in this Chapter referred to as the Board) or the Appellate Collector of Central Excise under section 35, as it stood immediately before the appointed day; 54 of 1963.

(*d*) an order passed by the Board or the Collector of Central Excise, either before or after the appointed day, under section 35A, as it stood immediately before that day:

Provided that the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in clause (*b*) or clause (*c*) or clause (*d*) where —

(*i*) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(*ii*) the amount of fine or penalty determined by such order,

does not exceed ten thousand rupees.

(*2*) The Collector of Central Excise may, if he is of opinion that an order passed by the Appellate Collector of Central Excise under section 35, as it stood immediately before the appointed day, or the Collector (Appeals) under section 35A, is not legal or proper, direct any Central Excise Officer authorised by him in this behalf (hereafter in this Chapter referred to as the authorised officer) to appeal on his behalf to the Appellate Tribunal against such order.

(*3*) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the Collector of Central Excise, or, as the case may be, the other party preferring the appeal.

(*4*) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has ben preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in the prescribed manner against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (*3*).

(*5*) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (*3*) or sub-section (*4*), if it is satisfied that there was sufficient cause for not presenting it within that period.

(*6*) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (*2*) or a memorandum of cross-objections referred to in sub-section (*4*), be accompanied by a fee of two hundred rupees.

35C. **Orders of Appellate Tribunal.** — (*1*) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the authority which passed such decision or order with such directions as the Appellate Tribunal may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

(*2*) The Appellate Tribunal may, at any time within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (*1*) and shall make such amendments if the mistake is brought to its notice by the Collector of Central Excise or the other party to the appeal:

Provided that an amendment which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the other party, shall not be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

(*3*) The Appellate Tribunal shall send a copy of every order passed under this section to the Collector of Central Excise and the other party to the appeal.

(*4*) Save as provided in section 35G or section 35L, orders passed by the Appellate Tribunal on appeal shall be final.

35D. **Procedure of Appellate Tribunal.** —(*1*) The provisions of sub-sections (*1*), (*2*), (*5*) and (*6*) of section 129C of the Customs Act, 1962, shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Customs Act, 1962. 52 of 1962.

(*2*) Every appeal against a decsion or order relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment, shall be heard by a Special Bench constituted by the President for hearing such appeals and such Bench shall consist of not less than three members and shall include at least one judicial member and one technical member.

(*3*) The President or any other member of the Appellate Tribunal authorised in this behalf by the President may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member where —

(*a*) in any disputed case, other than a case, where the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(*b*) the amount of fine or penalty involved,

does not exceed ten thousand rupees.

35E. **Powers of Board or Collector of Central Excise to pass certain orders.** — (*1*) The Board may, of its own motion, call for and examine the record of any proceeding in which a Collector of Central Excise as an adjudicating authority has passed any decision or order under this Act for the purpose

of satisfying itself as to the legality or propriety of any such decision or order and may, by order, direct such Collector to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order as may be specified by the Board in its order.

(2) The Collector of Central Excise may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority subordinate to him has passed any decision or order under this Act for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority to apply to the Collector (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Collector of Central Excise in his order.

(3) **No order shall be made under sub-section (1)** or sub-section (2) after the expiry of two years from the date of the decision or order of the adjudicating authority.

(4) Where in pursuance of an order under sub-section (1) or sub-section (2), the adjudicating authority or the authorised officer makes an application to the Appellate Tribunal or the Collector (Appeals) within a period of three months from the date of communication of the order under sub-section (2) to the adjudicating authority, such application shall be heard by the Appellate Tribunal or the Collector (Appeals), as the case may be, as if such application were an appeal made against the decision or order of the adjudicating authority and the provisions of this Act regarding appeals, including the provisions of sub-section (4) of section 35B shall, so far as may be, apply to such application.

35F. **Deposit, pending appeal, of duty demanded or penalty levied.** — Where in any appeal under this Chapter, the decision or order appealed against relates to any duty demanded in respect of goods which are not under the control of central excise authorities or any penalty levied under this Act, the person desirous of appealing against such decision or order shall, pending the appeal, deposit with the adjudicating authority the duty demanded or the penalty levied:

Provided that where in any particular case, the Collector (Appeals) or the Appellate Tribunal is of opinion that the deposit of duty demanded or penalty levied would cause undue hardship to such person, the Collector (Appeals) or, as the case may be, the Appellate Tribunal, may dispense with such deposit subject to such conditions as he or it may deem fit to impose so as to safeguard the interests of revenue.

35G. **Statement of case to High Court.** — (1) The Collector of Central Excise or the other party may, within sixty days of the date upon which he is served with notice of an order under section 35C (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment), by application in the prescribed form, accompanied, where the application is made by the other party, by a fee of two hundred rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days.

(2) On receipt of notice that an application has been made under sub-section (1), the person against whom such application has been made, may, notwithstanding that he may not have filed such an application, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in the prescribed manner against any part of the order in relation to which an application for reference has been made and such memorandum shall be disposed of by the Appellate Tribunal as if it were an application presented within the time specified in sub-section (1).

(3) If, on an application made under sub-section (1), the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the Collector of Central Excise, or, as the case may be, the other party may, within six months from the date on which he is served with notice of such refusal, apply to the High Court and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition, the Appellate Tribunal shall state the case and refer it accordingly.

(4) Where in the exercise of its powers under sub-section (3), the Appellate Tribunal refuses to state a case which it has been required by an applicant to state, the applicant may, within thirty days from the date on which he receives notice of such refusal, withdraw his application and, if he does so, the fee, if any, paid by him shall be refunded.

35H. **Statement of case to Supreme Court in certain cases.** — If, on an application made under section 35G, the Appellate Tribunal is of opinion that, on account of conflict in the decisions of High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through the President direct to the Supreme Court.

35-I. **Power of High Court or Supreme Court to require statement to be amended.** — If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.

35J. **Case before High Court to be heard by not less than two judges.** — (1) When any case has been referred to the High Court under section 35G, it shall be heard by a Bench of not less than two judges of the High Court and shall be decided in accordance

with the opinion of such judges or of the majority, if any, of such judges.

(2) Where there is no such majority, the judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other judges of the High Court, and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.

35K. **Decision of High Court or Supreme Court on the case stated.** — (1) The High Court or the Supreme Court hearing any such case shall decide the questions of law raised therein and shall deliver its judgment thereon containing the grounds on which such decision is founded and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case in conformity with such judgment.

(2) The costs of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference shall be in the discretion of the Court.

35L. **Appeal to Supreme Court.** — An appeal shall lie to the Supreme Court from —

(a) any judgment of the High Court delivered on a reference made under section 35G in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after the passing of the judgment, the High Court certifies to be a fit one for appeal to the Supreme Court; or

(b) any order passed by the Appellate Tribunal relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment.

35M. **Hearing before Supreme Court.** — (1) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 35L as they apply in the case of appeals from decrees of a High Court: 5 of 1908.

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (1) of section 35K or section 35N.

(2) The costs of the appeal shall be in the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 35K in the case of a judgment of the High Court.

35N. **Sums due to be paid notwithstanding reference, etc.** — Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, sums due to the Government as a result of an order passed under sub-section (1) of section 35C shall be payable in accordance with the order so passed.

35-O. **Exclusion of time taken for copy.** — In computing the period of limitation prescribed for an appeal or application under this Chapter, the day on which the order complained of was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order shall be excluded.

35P. **Transfer of certain pending proceedings and transitional provisions.** — (1) Every appeal which is pending immediately before the appointed day before the Board under section 35, as it stood immediately before that day, and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal may proceed with such appeal or matter from the stage at which it was on that day:

Provided that the appellant may demand that before proceeding further with that appeal or matter, he may be re-heard.

(2) Every proceeding which is pending immediately before the appointed day before the Central Government under section 36, as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal may proceed with such proceeding or matter from the stage at which it was on that day as if such proceeding or matter were an appeal filed before it:

Provided that if any such proceeding or matter relates to an order where —

(a) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or

(b) the amount of fine or penalty determined by such order,

does not exceed ten thousand rupees, such proceeding or matter shall continue to be dealt with by the Central Government as if the said section 36 had not been substituted:

Provided further that the applicant or the other party may make a demand to the Appellate Tribunal that before proceeding further with that proceeding or matter, he may be re-heard.

(3) Every proceeding which is pending immediately before the appointed day before the Board or the Collector of Central Excise under section 35A, as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall continue to be dealt with by the Board or the Collector of Central Excise, as the case may be, as if the said section had not been substituted.

(4) Any person who immediately before the appointed day was authorised to appear in any appeal or proceeding transferred under sub-section (1) or sub-section (2) shall, notwithstanding anything contained in section 35Q, have the right to appear before the Appellate Tribunal in relation to such appeal or proceeding.

35Q. **Appearance by authorised representative.** — (*1*) Any person who is entitled or required to appear before a Central Excise Officer or the Appellate Tribunal in connection with any proceedings under this Act, otherwise than when required under this Act to appear personally for examination on oath or affirmation, may, subject to the other provisions of this section, appear by an authorised representative.

(*2*) For the purposes of this section, "authorised representative" means a person authorised by the person referred to in sub-section (*1*) to appear on his behalf, being —

(*a*) his relative or regular employee; or

(*b*) any legal practitioner who is entitled to practise in any civil court in India; or

(*c*) any person who has acquired such qualifications as the Central Government may prescribe for this purpose.

(*3*) Notwithstanding anything contained in this section, no person who was a member of the Indian Customs and Central Excise Service — Group A and has retired or resigned from such Service after having served for not less than three years in any capacity in that Service, shall be entitled to appear as an authorised representative in any proceedings before a Central Excise Officer for a period of two years from the date of his retirement or resignation, as the case may be.

(*4*) No person, —

(*a*) who has heen dismissed or removed from Government service; or

(*b*) who is convicted of an offence connected with any proceeding under this Act, the Customs Act, 1962 or the Gold (Control) Act, 1968; or 52 of 1962. 45 of 1968.

(*c*) who has become an insolvent,

shall be qualified to represent any person under sub-section (*1*), for all times in the case of a person referred to in clause (*a*), and for such time as the Collector of Central Excise or the competent authority under the Customs Act, 1962 or the Gold (Control) Act, 1968, as the case may be, may, by order, determine in the case of a person referred to in clause (*b*), and for the period during which the insolvency continues in the case of a person referred to in clause (*c*).

(*5*) If any person, —

(*a*) who is a legal practitioner, is found guilty of misconduct in his professional capacity by any authority entitled to institute proceedings against him, an order passed by that authority shall have effect in relation to his right to appear before a Central Excise Officer or the Appellate Tribunal as it has in relation to his right to practise as a legal practitioner;

(*b*) who is not a legal practitioner, is found guilty of misconduct in connection with any proceedings under this Act by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent any person under sub-section (*1*).

(*6*) Any order or direction under clause (*b*) of sub-section (*4*) or clause (*b*) of sub-section (*5*) shall be subject to the following conditions, namely: —

(*a*) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;

(*b*) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and

(*c*) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

36. **Definitions.** — In this Chapter —

(*a*) "appointed day" means the date of coming into force of the amendments to this Act specified in Part II of the Fifth Schedule to the Finance (No. 2) Act, 1980;

(*b*) "High Court" means, —

(*i*) in relation to any State, the High Court for that State;

(*ii*) in relation to a Union territory to which the jurisdiction of the High Court of a State has been extended by law, that High Court;

(*iii*) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay;

(*iv*) in relation to any other Union territory, the highest court of civil appeal for that territory other than the Supreme Court of India;

(*c*) "President" means the President of the Appellate Tribunal.'.

3. Before section 36A, insert —

"CHAPTER VIB

Presumption as to documents".

PART III

Amendments in the Gold (Control) Act, 1968

1. Section 2. —

(*i*) For clause (*a*), substitute —

'(*a*) "adjudicating authority" means an authority competent to pass any order or decision under this Act, but does not include the Administrator, Collector (Appeals) or Appellate Tribunal;

(*aa*) "Administrator" means the Administrator appointed under section 4;

(*aaa*) "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962;'; 52 of 1962.

(*ii*) After clause (*e*), insert —

'(*ee*) "Collector (Appeals)" means a Collector of Central Excise (Appeals) or a Collector of Customs (Appeals) appointed under section 4 to be a Collector (Appeals) for the purposes of this Act;'.

2. Section 4, in sub-section (*4*), omit "or under clause (*a*) of sub-section (*1*) of section 81".

3. In Chapter XIV, for the heading, substitute —

"Adjudication and Appeals".

4. For sections 80, 81 and 82, substitute —

'80. **Appeals to Collector (Appeals).** — (*1*) Any person aggrieved by any decision or order passed under this Act by a Gold Control Officer lower in rank than a Collector of Central Excise or of Customs may appeal to the Collector (Appeals) within three months from the date of the communication to him of such decision or order:

Provided that the Collector (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(*2*) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.

80A. **Procedure in appeal.** — (*1*) The Collector (Appeals) shall give an opportunity to the appellant to be heard, if he so desires.

(*2*) The Collector (Appeals) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Collector (Appeals) is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(*3*) The Collector (Appeals) may, after making such further inquiry as may be necessary, pass such order as he thinks fit confirming, modifying or annulling the decision or order appealed against, or may refer the case back to the adjudicating authority with such directions as he may think fit for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating things of greater value shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order.

(*4*) The order of the Collector (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(*5*) On the disposal of the appeal, the Collector (Appeals) shall communicate the order passed by him to the appellant, the adjudicating authority and the Collector of Central Excise or of Customs.

81. **Appeals to the Appellate Tribunal.** — (*1*) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order —

(*a*) a decision or order passed by the Collector of Central Excise or of Customs as an adjudicating authority;

(*b*) an order passed by the Collector (Appeals) under section 80A;

(*c*) an order passed by the Administrator, Collector of Central Excise or of Customs or the Appellate Collector of Customs under section 80, as it stood immediately before the appointed day;

(*d*) an order passed by the Administrator, either before or after the appointed day, under section 81, as it stood immediately before that day:

Provided that the Appellate Tribunal may, in its discretion, refuse to admit an appeal in respect of an order referred to in clause (*b*) or clause (*c*) or clause (*d*) where, —

(*i*) the value of the thing confiscated without option having been given to the owner thereof to pay a fine in lieu of confiscation under section 73; or

(*ii*) the amount of fine or penalty determined by such order, does not exceed ten thousand rupees.

(*2*) The Administrator may, if he is of opinion that an order passed by the Collector of Central Excise or of Customs or the Appellate Collector of Customs under clause (*b*) of sub-section (*1*) of section 80, as it stood immediately before the appointed day, is not legal or proper, direct an officer authorised by him in this behalf (hereafter in this Chapter referred to as the authorised officer) to appeal on his behalf to the Appellate Tribunal against such order.

(*3*) The Collector of Central Excise or of Customs, may, if he is of opinion that an order passed by the Collector (Appeals) under section 80A is not legal or proper direct the authorised officer to appeal on his behalf to the Appellate Tribunal against such order.

(*4*) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the Collector of Central Excise or of Customs, or, as the case may be, the other party preferring the appeal.

(*5*) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in the prescribed manner against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (*4*).

(*6*) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (*4*) or sub-section (*5*), if it is satisfied that there was sufficient cause for not presenting it within that period.

(*7*) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (*2*) or sub-section (*3*) or a memorandum of cross-objections referred to in sub-section (*5*), be accompanied by a fee of two hundred rupees.

81A. **Orders of Appellate Tribunal.** — (*1*) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed

against or may refer the case back to the authority which passed such decision or order with such directions as the Appellate Tribunal may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

(2) The Appellate Tribunal may, at any time within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendments if the mistake is brought to its notice by the Collector of Central Excise or of Customs or the other party to the appeal:

Provided that an amendment which has the effect of enhancing any penalty or fine in lieu of confiscation or confiscating things of greater value shall not be made under this sub-section unless the Appellate Tribunal has given notice of its intention to do so, to the other party and has allowed him a reasonable opportunity of being heard.

(3) The Appellate Tribunal shall send a copy of every order passed under this section to the Collector of Central Excise or of Customs and the other party to the appeal.

(4) Save as otherwise provided in section 82B, orders passed by the Appellate Tribunal on appeal shall be final.

81B. **Procedure of Appellate Tribunal.**— (1) The provisions of sub-sections (1), (2), (5) and (6) of section 129C of the Customs Act, 1962, shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Customs Act, 52 of 1962.

(2) The President or any other member of the Appellate Tribunal authorised in this behalf by the President may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member where —

(a) the value of the thing confiscated without option having been given to the owner thereof to pay a fine in lieu of confiscation under section 73; or

(b) the amount of fine or penalty involved,

does not exceed ten thousand rupees.

82. **Powers of the Administrator or Collector of Central Excise or of Customs to pass certain orders.** — (1) The Administrator may, of his own motion, call for and examine the record of any proceeding in which a Collector of Central Excise or of Customs as an adjudicating authority has passed any decision or order under this Act for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such Collector to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order as may be specified by the Administrator in his order.

(2) The Collector of Central Excise or of Customs may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority subordinate to him has passed any decision or order under this Act for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority to apply to the Collector (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Collector of Central Excise or of Customs in his order.

(3) No order shall be made under sub-section (1) or sub-section (2) after the expiry of two years from the date of the decision or order of the adjudicating authority.

(4) Where in pursuance of an order under sub-section (1) or sub-section (2), the adjudicating authority or the authorised officer makes an application to the Appellate Tribunal or the Collector (Appeals) within a period of three months from the date of communication of the order under sub-section (1) or sub-section (2) to the adjudicating authority, such application shall be heard by the Appellate Tribunal or the Collector (Appeals), as the case may be, as if such application were an appeal made against the decision or order of the adjudicating authority and the provisions of this Act regarding appeals, including the provisions of sub-section (5) of section 81, shall, so far as may be, apply to such application.

82A. **Deposit, pending appeal, of penalty levied.** — Where in any appeal under this Chapter, the decision or order appealed against relates to any penalty levied under this Act, the person desirous of appealing against such decision or order shall, pending the appeal, deposit with the adjudicating authority the penalty levied:

Provided that where in any particular case, the Collector (Appeals) or the Appellate Tribunal is of opinion that the deposit of penalty levied would cause undue hardship to such person, the Collector (Appeals) or, as the case may be, the Appellate Tribunal may dispense with such deposit subject to such conditions as he or it may deem fit to impose.

82B. **Statement of case to High Court.** — (1) The Collector of Central Excise or of Customs or the other party may, within sixty days of the date upon which he is served with notice of an order under section 81A, by application in the prescribed form, accompanied, where the application is made by the other party, by a fee of two hundred rupees, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days.

(2) On receipt of notice that an application has been made under sub-section (1), the person against whom such application has been made, may, notwithstanding that he may not have filed such

an application, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in the prescribed manner against any part of the order in relation to which an application for reference has been made and such memorandum shall be disposed of by the Appellate Tribunal as if it were an application presented within the time specified in sub-section (*1*).

(*3*) If, on an application made under sub-section (*1*), the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the Collector of Central Excise or of Customs, or, as the case may be, the other party may, within six months from the date on which he is served with notice of such refusal, apply to the High Court and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition, the Appellate Tribunal shall state the case and refer it accordingly.

(*4*) Where in the exercise of its powers under sub-section (*3*), the Appellate Tribunal refuses to state a case which it has been required by an applicant to state, the applicant may, within thirty days from the date on which he receives notice of such refusal, withdraw his application and, if he does so, the fee, if any, paid by him, shall be refunded.

82C. **Statement of case to Supreme Court in certain cases.** — If, on an application made under section 82B, the Appellate Tribunal is of opinion that, on account of conflict in the decisions of High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through the President direct to the Supreme Court.

82D. **Power of High Court or Supreme Court to require statement to be amended.** — If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.

82E. **Case before High Court to be heard by not less than two judges.** — (*1*) When any case has been referred to the High Court under section 82B, it shall be heard by a Bench of not less than two judges of the High Court and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

(*2*) Where there is no such majority, the judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other judges of the High Court and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.

82F. **Decision of High Court or Supreme Court on the case stated.** — (*1*) The High Court or the Supreme Court hearing any such case shall decide the questions of law raised therein and shall deliver its judgment thereon containing the grounds on which such decision is founded and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case in conformity with such judgment.

(*2*) The costs of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference shall be in the discretion of the Court.

82G. **Appeal to Supreme Court.** — An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a reference made under section 82B in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after the passing of the judgment, the High Court certifies to be a fit one for appeal to the Supreme Court.

82H. **Hearing before Supreme Court.** — (*1*) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 82G as they apply in the case of appeals from decrees of a High Court: 5 of 1908.

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (*1*) of section 82F or section 82-I.

(*2*) The costs of the appeals shall be in the discretion of the Supreme Court.

(*3*) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 82F in the case of a judgment of the High Court.

82-I. **Sums due to be paid notwithstanding reference, etc.** — Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, sums due to the Government as a result of an order passed under sub-section (*1*) of section 81A shall be payable in accordance with the order so passed.

82J. **Exclusion of time taken for copy.** — In computing the period of limitation prescribed for an appeal or application under this Chapter, the day on which the order complained of was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order shall be excluded.

82K. **Transfer of certain pending proceedings and transitional provisions.** — (*1*) Every appeal which is pending immediately before the appointed day before the Administrator or the Collector of Central Excise or of Customs under section 80, as it stood immediately before that day and any matter arising out of or connected with such appeal and which is

so pending shall stand transferred on that day to the Appellate Tribunal or the Collector (Appeals), as the case may be, and the Appellate Tribunal or the Collector (Appeals) may proceed with such appeal or matter from the stage at which it was on that day:

Provided that the appellant may demand that before proceeding further with that appeal or matter, he may be re-heard.

(2) Every proceeding which is pending immediately before the appointed day before the Central Government under section 82, as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal may proceed with such proceeding or matter from the stage at which it was on that day as if such proceeding or matter were an appeal filed before it:

Provided that the applicant or the other party may demand that before proceeding further with that proceeding or matter, he may be re-heard.

(3) Every proceeding which is pending immediately before the appointed day before the Administrator under section 81, as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall continue to be dealt with by the Administrator as if the said section had not been substituted.

(4) Any person who immediately before the appointed day was authorised to appear in any appeal or proceeding transferred under sub-section (1) or sub-section (2) shall, notwithstanding anything contained in section 101A have the right to appear before the Appellate Tribunal in relation to such appeal or proceeding.

82L. Definitions. — In this Chapter —

(a) "appointed day" means the date of coming into force of the amendments to this Act specified in Part III of the Fifth Schedule to the Finance (No. 2) Act, 1980;

(b) "High Court" means, —

(i) in relation to any State, the High Court for that State;

(ii) in relation to a Union territory to which the jurisdiction of the High Court of a State has been extended by law, that High Court;

(iii) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay;

(iv) in relation to any other Union territory, the highest court of civil appeal for that territory other than the Supreme Court of India;

(c) "President" means the President of the Appellate Tribunal.".

5. Section 83, in sub-sections (1) and (3), omit "or exercising any powers of revision".

6. Omit section 84.

7. After section 101, insert, —

'101A. **Appearance by authorised representative.** — (1) Any person who is entitled or required to appear before a Gold Control Officer or the Appellate Tribunal in connection with any proceedings under this Act, otherwise than when required under this Act to appear personally for examination on oath or affirmation, may, subject to the other provisions of this section, appear by an authorised representative.

(2) For the purposes of this section, "authorised representative" means a person authorised by the person referred to in sub-section (1) to appear on his behalf, being —

(a) his relative or regular employee; or

(b) any legal practitioner who is entitled to practise in any civil court in India; or

(c) any person who has acquired such qualifications as the Central Government may prescribe for this purpose.

(3) Notwithstanding anything contained in this section, no person who was a member of the Indian Customs and Central Excise Service — Group A and has retired or resigned from such Service after having served for not less than three years in any capacity in that Service shall be entitled to appear as an authorised representative in any proceedings before a Gold Control Officer for a period of two years from the date of his retirement or resignation, as the case may be.

(4) No person, —

(a) who has been dismissed or removed from Government service; or

(b) who is convicted of an offence connected with any proceeding under this Act, the Customs Act, 1962, or the Central Excises and Salt Act, 1944; or — 52 of 1962. 1 of 1944.

(c) who has become an insolvent,

shall be qualified to represent any person under sub-section (1), for all times in the case of a person referred to in clause (a), and for such time as the Collector of Central Excise or of Customs or the competent authority under the Customs Act, 1962, or the Central Excises and Salt Act, 1944, as the case may be, may, by order, determine in the case of a person referred to in clause (b), and for the period during which the insolvency continues in the case of a person referred to in clause (c).

(5) If any person, —

(a) who is a legal practitioner, is found guilty of misconduct in his professional capacity by any authority entitled to institute proceedings against him, an order passed by that authority shall have effect in relation to his right to appear before a Gold Control Officer or the

Appellate Tribunal as it has in relation to his right to practise as a legal practitioner;

(*b*) who is not a legal practitioner, is found guilty of misconduct in connection with any proceedings under this Act by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent any person under sub-section (*1*).

(*6*) Any order or direction under clause (*b*) of sub-section (*4*) or clause (*b*) of sub-section (*5*) shall be subject to the following conditions, namely: —

(*a*) no such order or direction shall be made in respect of any person unless he had been given a reasonable opportunity of being heard;

(*b*) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Administrator to have the order or direction cancelled; and

(*c*) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.'.

8. Section 114, in sub-section (*2*), in clause (*e*), omit sub-clause (*iii*).

GOVT. PRINTING PRESS — GOA
(Imprensa Nacional — Goa)
Price: — Rs. 4-45 Ps.